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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~185~~ 42

THE STEAMBOAT FRANCIS FISHER, &c., THE MADISON COUNTY COAL COMPANY, CLAIMANT, APPELLANT,

vs.

THE ILLINOIS RIVER PACKET COMPANY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MISSOURI.

FILED DECEMBER 7, 1867.

SUPREME COURT OF THE UNITED STATES.

No. 185.

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1 Pleas before the honorable the Circuit Court of the United States for the district of Missouri at October term, A. D. 1867.

On appeal from District Court of United States for eastern district of Missouri.

THE ILLINOIS RIVER PACKET COMPANY, libellant and appellee,
against
THE STEAMBOAT FRANCIS FISHER, THE MADISON COUNTY COAL COMPANY, claimant and appellant.

MISSOURI DISTRICT, *sct.:*

Be it remembered that on the 30 day of March, A. D. 1867, came the libellant and appellee, by attorney, and filed in the Circuit Court of the United States for the district of Missouri the following record, viz:

UNITED STATES OF AMERICA, *Eastern District of Missouri, ss:*

Be it remembered that at a special term of the District Court of the United States of America in and for the eastern district of Missouri, begun and holden at the city of St. Louis, in said eastern district, on Tuesday, the eleventh day of September, in the year of
2 our Lord, eighteen hundred and sixty-six, the following proceedings took place on said last-mentioned day, to wit:

In case No. 1,165 of the Illinois River Packet Company, libellant, against the steamboat Francis Fisher, her engines, machinery, tackle, apparel and furniture.—No. 1,165.

Order to file libel and for process.

This day came the said libellant, by Messrs. Sharp and Broadhead, its proctors, and presented its libel in this cause to the court, which, on the motion of said proctors, and on consideration of said libel, ordered it to be filed. On like motion, the court also ordered, that upon said libellant's giving a bond and stipulation, according to the rules and practice of this court, a warrant of arrest and monition be issued in this cause in the usual form, according to said rules and practice, and also commanding the marshal of said United States, in and for this district, to give due notice that this cause will be heard on the return-day of said warrant of arrest, and said libel was thereupon, on said eleventh day of September, in said last-mentioned
3 year, filed in the clerk's office of this district, and is in the words and figures following, to wit:

In the District Court of the United States in and for said district.

Libel.

UNITED STATES OF AMERICA, *Eastern District of Missouri:*

To the Honorable Samuel Treat, judge of said District Court:

The libel and complaint of the Illinois River Packet Company, a corporation duly created by and under the laws of the State of Illinois, against the steamboat Francis Fisher, her engines, machinery, tackle, apparel, and furniture, and against all persons intervening for their interest therein in a cause of collision, civil and maritime, alleges and propounds, as follows:

First. That said steamboat, whereof is master, is now lying at the port of St. Louis, within said eastern district of Missouri, and is a vessel of over twenty tons burden, and is used in navigating the Illinois and Mississippi rivers, both navigable waters of the United States, and within the admiralty and maritime jurisdiction of the said United States.

Second. That said libellant was, at the time hereinafter men-
4 tioned, the owner of the barge Anna; that on or about the first day of April, 1866, the said barge Anna started on a voyage from the port of Peoria, on the Illinois river, freighted with a valuable cargo of corn, oats, and other meachandise, by way of the said Illinois and Mississippi rivers, both navigable rivers of the United States, for vessels of over twenty tons burden, and in tow of the steamer "City of Pekin," which steamer was also owned by said libellant, for the port of St. Louis, Missouri; that at the commencement of said voyage, and during its continuance, and at the time of the collision hereinafter mentioned, the said boat and barge were seaworthy, properly manned, and sufficiently provided with tackle, apparel, and furniture.

Third. That on the morning of the third of April, 1866, the said barge "Anna," having been safely towed to the port of St. Louis, was brought to on the outside of the steamer "Belle of Pike," and was made fast to a barge which was alongside of that boat, and a special watchman placed in charge of her; that the barge "Anna" was thus secured because her usual place of landing at the wharf was at that time occupied by steamboats; that shortly after the barge Anna was thus secured, and about half-past 9 o'clock,
5 on the morning of the 3rd of April, 1866, the said steamboat "Francis Fisher," with a coal barge in tow, came alongside of the barge Anna, and struck her heavily on the side, by reason whereof the timbers of the said barge were pressed in and her seams and butts opened, which caused her to leak, and before anything could be done to save her, or any part of her cargo, she sunk and became a total loss with all her cargo on board.

Fourth. Libellant says that said collision and loss were caused wholly by the culpable carelessness and negligence of those on board the steamer Francis Fisher and having charge of her; and that they would not have happened if due caution and proper diligence had

been used by those on board the said steamer Francis Fisher; and having charge of her, and that the said collision and loss were in no way caused by those having charge of the said barge "Anna."

Fifth. Libellant says that by reason of the said collision and loss of the said barge, the said libellant has been damaged in the sum of five thousand dollars; that the cargo on said barge consisted of five hundred bags of corn of the value of $765; one hundred bar-
6 rels of mess pork of the value of $2,850; seventy-three sacks of corn of the value of $108 12-100; four hundred and forty-six sacks of oats of the value of $802 80-100; seven hundred and sixty-two sacks of oats of the value of $1,450 81-100; sixty sacks of corn of the value of $91 13-100; eight hundred and fifty-one sacks of oats of the value of $1,531 80-100; twenty-five barrels of high wines of the value of $250; eleven hundred and fifteen sacks of corn of the value of $1,666 68, and twelve sacks of wheat of the value of $50; all of which cargo was totally lost, making the whole amount of damage caused by said collision, the sum of fourteen thousand five hundred and sixty-six and 34-100 dollars.

Sixth. That, by virtue of the premises, the said libellant has a lien upon said steamer Francis Fisher, her engines, machinery, tackle, apparel and furniture, by the admiralty and maritime law of the United States, for the said sum of fourteen thousand five hundred and sixty-six dollars and 34 cents.

Seventh. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this court; wherefore the said libellant prays that process in
7 due form of law may issue against the said steamboat Francis Fisher, her engines, machinery, tackle, apparel and furniture, to satify the damages aforesaid; that all persons claiming an interest in said boat may be mentioned to answer all the matters aforesaid; that this court will be pleased to pronounce for the aforesaid demand of this libellant, and to decree that the said boat, with her engines, machinery, tackle, apparel and furniture, be condemned and sold to pay said demand with costs and charges, and that libellant may have such other and further relief in the premises as in law and justice it may be entitled to receive.

(Signed) SHARP & BROADHEAD,
Proctors for Libellants.

UNITED STATES OF AMERICA, *Eastern District of Missouri, ss:*

Daniel J. Hancock, president of the "Illinois River Packet Company," the said libellant and agent of said libellant in this behalf, being duly sworn, deposes and says, that to the best of his knowledge and belief, the allegations contained in the foregoing libel are true; and that he is personally cognizant of the matters therein alleged.

(Signed) DANIEL J. HANCOCK.

8 Subscribed and sworn to by said affiant, before me, at office, in the city of St. Louis, in said district, this eleventh day of September, A. D. 1866.

(Signed) F. A. WERNER,
Com'r of U. S. Circuit Court for the District of Missouri.

And thereupon, and on said eleventh day of September, A. D. 1866, and said libellant having given a bond and stipulation, as is required by the rules and practice of this court, there was issued out of the clerk's office of this District Court, a warrant of arrest and monition in the usual form, according to said rules and practice which warrant is in the words and figures following, to wit:

Warrant of arrest and monition.

UNITED STATES OF AMERICA, *Eastern District of Missouri, ss*:

The President of the United States of America, to the marshal of said United States in and for said district, greeting:

Whereas a libel has been filed in the District Court of said United States, in and for the eastern district of Missouri, on the eleventh day of September, in the year of our Lord eighteen hundred and sixty-six, by the Illinois River Packet Company, libellant, against the steamboat Francis Fisher, her engines, machinery, tackle, apparel and furniture, in a cause, civil and maritime of collision
9 and damage for a demand of the sum of fourteen thousand five hundred and sixty-six dollars and 34 cents, for the reasons and causes in said libel mentioned, and praying the usual process and monition of said District Court in that behalf to be issued, you are hereby commanded to arrest and take into your possession for safe custody the said steamboat Francis Fisher, her engines, machinery, tackle, apparel and furniture, (or so much of them as shall be fully sufficient to satisfy said demand of said libellant, and also two hundred and fifty dollars as security for costs and expenses of said cause;) and you are commanded to keep safely all property so arrested by you, and detain the same, subject to the further order of said District Court, unless sooner discharged from your custody according to law or the rules of said District Court. And you are further commanded to cause public notice of such arrest of said property and of the time assigned for the return of this warrant, and the hearing of said cause to be given by publication in the "Missouri Republican," a public newspaper printed at the city of Saint Louis in said district, and by like publication also to admonish and summon all persons claiming any interest in said steamboat, her engines, machinery,
10 tackle, apparel or furniture, or knowing or having anything to say why the same should not be condemned and sold to answer the demand of said libellant; that they be and appear before said District Court at a return term thereof, to be begun and holden at said District Court's room in the city of Saint Louis in said district, on the first Monday the first day of the month of October next, at ten o'clock in the forenoon, (when and where said cause will be heard,)

then and there to interpose their claims and answer said libel, and make their allegations in that behalf, and of what you shall have done in the premises, do you then and there make return together with this warrant.

Witness the Honorable Samuel Treat, judge of said District Court, this eleventh day of September, in the year of our Lord eighteen hundred and sixty-six. Issued at my office, in said city of St. Louis, under the seal of said District Court, the day and year last above-written.

[SEAL.] BENJ. F. HICKMAN,
Clerk of said District Court.

[U. S. rev. stamp.]

And on the fifteenth day of September, A. D. 1866, there was filed in the clerk's office of this District Court a claim in this cause
11 in accordance with the practice of said court, and the 26th rule established for the District Courts by the Supreme Court of the United States, which claim is in the words and figures following, to wit:

In the District Court of said United States, in and for said district.

Claim of Claimants.

In cause No. 1,165, A. D. 1866 of the Illinois River Packet Company, libellant, against the steamboat Francis Fisher, her engines, machinery, tackle, apparel, and furniture.—In admiralty.

UNITED STATES OF AMERICA,
Eastern District of Missouri, ss:

To the Honorable Samuel Treat, judge of said District Court:

The claim of the Madison County Coal Company, a company duly incorporated under the laws of the State of Illinois, made in the above-entitled cause, alleges, as follows:

First. That the said claimant is the true and bona fide owner of said steamboat Francis Fisher, her engines, machinery, tackle, apparel and furniture, and that no other person is the owner thereof.

Second. That the stockholders of said company reside principally in the cities of Boston and New York.

(Signed) WILLIAM A. SCUDDER.

UNITED STATES OF AMERICA, *Eastern District of Missouri, ss:*

12 William A. Scudder, agent of said claimant, being duly sworn, deposes and says, that to the best of his knowledge and belief the allegations in the foregoing claim are true, and that he has put in the above claim as the duly authorized agent of said company, which is the owner of said steamboat Francis Fisher, her engines, machinery, tackle, apparel and furniture.

(Signed) WILLIAM A. SCUDDER.

Subscribed and sworn to by the above-named affiant, this fifteenth day of September, 1866, before me, at my office, in the city of Saint Louis, in said eastern district of Missouri.

(Signed) F. A. WERNER,
Commissioner of the U. S. Circuit Court, in and for the Districts of Missouri.

And at a special term of this District Court, begun and holden at the city of Saint Louis in said district, on Saturday, the fifteenth day of September, A. D. 1866, the following further proceedings took place on said 15th day of September, in said year, to wit:

No. 1,165.—In case No. 1,165 of the Illinois River Packet Company, libellant, against the steamboat Francis Fisher, her engines, &c.

13 *Order of release on giving stipulation, &c.*

This day came the Madison county Coal Company, the claimant in this cause, by William A. Scudder, its agent, and said steamboat, her engines, machinery, tackle, apparel, and furniture, having been arrested by the marshal of the United States in and for said district, and being still in his custody, under the warrant of arrest heretofore issued in this cause, on motion of said Scudder, the court ordered that upon payment of costs, and upon said claimant's giving a stipulation according to the rules and practice of this court for the release of the property so arrested as aforesaid, a warrant of discharge and delivery in the usual form according to said rules and practice, and returnable on the return-day of said warrant of arrest, be issued in said cause.

And thereupon on said 15th day of September, in said last-mentioned year, there was filed in the clerk's of this District Court, on behalf of said claimant, a stipulation for release, according to the practice of this court, and the 37th rule established by said court, which stipulation is in the words and figures following, to wit:

In the District Court of said United States in and for said district.

Stipulation for release of boat.

14 Stipulation for release of libelled property, under Rule 37 of said rule.

UNITED STATES OF AMERICA, *Eastern District of Missouri, ss:*

Whereas, a libel was filed in this court on the eleventh day of September, in the year of our Lord eighteen hundred and sixty-six, by the Illinois River Packet Company, libellent, against the steamboat Francis Fisher, her engines, machinery, tackle, apparel, and furniture, and praying that the same may be condemned and sold to answer the prayer of said libellant, for the reasons and causes in said libel mentioned; and said steamboat, with her engines, machinery, tackle, apparel,

and furniture has been arrested by the marshal of the United States in and for said eastern district of Missouri, and is still by him held in custody, by virtue of a warrant issued in this cause out of the clerk's office of said District Court, to answer the demand of said libellant in said libel set forth for the sum of fourteen thousand five hundred and sixty-six dollars and thirty-four cents; and the Madison County Coal Company have filed in this cause, in said clerk's office, a claim to said steamboat, with her engines, machinery, tackle.

15 apparel, and furniture, and also desire that the same shall be discharged from said custody of said marshal, on said claimants giving a stipulation according to the rules and practice of this court; and the undersigned stipulators, William A. Scudder, resident at the city of St. Louis, in said eastern district, as principal, and John B. S. Lemoine, John E. Liggett, and Henry Dausman, all resident in the city of St. Louis, in said eastern district of Missouri, as sureties, hereby consenting and agreeing that, in case of default or contumacy on the part of said claimant, or said principal or sureties, execution for the sum of twenty-nine thousand one hundred and thirty-three dollars may issue against their goods, chattels, and lands: Now therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be and are jointly and severally bound in the sum of twenty-nine thousand one and thirty-three dollars, conditioned that the claimant above named shall abide by the final decree in this cause, and pay such amount, with interest, costs, damages, and expenses, as may be awarded against it by any interlocutory or final decree made therein by said District Court, or (in case of appeal) by the Appellate Court.

16 In witness whereof, we hereto severally sign our names, at the city of Saint Louis, in said eastern district of Missouri, the fifteenth day of September, A. D. eighteen hundred and sixty-six.

WILLIAM A. SCUDDER.
J. B. S. LEMOINE.
J. E. LIGGETT.
H. DAUSMAN.

The above stipulation subscribed and acknowledged by William A. Scudder, J. B. S. Lemoine, Jno. E. Liggett, and Henry Dausman, the parties thereto, before me and approved by me, this 15th day of September, A. D. 1866, at my office in said city of Saint Louis.

(Signed) F. A. WERNER,
Commissioner for the U. S. Circuit Court in and for the district of Missouri.

UNITED STATES OF AMERICA, *Eastern District of Missouri, ss:*

John B. S. Lemoine, Jno. E. Leggett, and Henry Dausman, sureties in the foregoing stipulation, being duly sworn, each and severally deposes and says, that he resides, as stated therein, and is worth, over and above all his debts and liabilities, the sum of twenty nine thousand one hundred and thirty-three dollars; and that he

owns real estate to that amount, subject to execution within the eastern district of Missouri.

J. B. S. LEMOINE.
J. E. LEGGETT.
H. DAUSMAN.

Subscribed and sworn to by Jno. B. S. Lemoine, Jno. E. Liggett, and Henry Dausman, the above-named affiant, this fifteenth
17 day of September, A. D. 1866, before me, at my office, in the said city.

(Signed) F. A. WERNER,
Commissioner of the U. S. Circuit Court in and for the districts of Missouri.

And thereupon, and on said fifteenth day of September, in said last-mentioned year, there was issued out of the clerk's office of said District Court, a warrant of discharge and delivery in the usual form according to the rules and practice of this court, which warrant is in the words and figures, following, to wit:

In the District Court of said United States, in and for said district.

Warrant of discharge, &c.

UNITED STATES OF AMERICA, *Eastern District of Missouri, ss:*

The President of the United States of America to the marshal of said United States in and for said district, greeting:

Whereas heretofore, at the suit of the Illinois River Packet Company, libellant, against the steamboat Francis Fisher, her engines, machinery, tackle, apparel, and furniture, a warrant of arrest, dated on the eleventh day of September, in the year of our Lord eighteen hundred and sixty-six, was issued to you out of the clerk's office of said District Court, by which warrant you were commanded,
18 among other things, to arrest and take into your possession for safe custody the said steamboat, her engines, machinery, &c., (or so much of them as should be fully sufficient to satisfy the demand of the said libellant in said warrant mentioned;) and you were commanded by said warrant to keep safely all property so arrested by you, and detain the same subject to the further order of said District Court, unless sooner discharged from your custody according to law or the rules of said District Court: Now, therefore, (it appearing to said District Court that you have in your custody certain property heretofore arrested by you, by virtue and authority of said warrant of arrest,) you are hereby commanded to discharge from your custody the said steamboat Francis Fisher, her engines, machinery, tackle, apparel, and furniture, and to deliver the same to the claimant in said cause, or to the person or persons out of whose possession you took the same, (unless the said property be also held in custody by you by virtue and authority of process duly issued to

you by competent authority in some other cause,) and do you bring this warrant into said District Court on the return-day of said warrant of arrest, and then and there make due return of your proceedings thereon.

19 Witness the honorable Samuel Treat, judge of said District Court, this fifteenth day of September, in the year of our Lord eighteen hundred and sixty-six.

Issued at my office in the city of St. Louis, in said district, under the seal of said District Court the day and year last above written.

(Signed) BENJ. F. HICKMAN,
Clerk of said District Court.

[Seal of court.]

And on the twenty-ninth day of September, in the last-mentioned year, there was filed in the clerk's office of this District Court by the claimant in this cause an answer to the libel in said cause, which answer is in the words and figures following, to wit:

Answer of claimant.

UNITED STATES OF AMERICA, *Eastern District of Missouri:*

In the District Court of the United States within and for said district.—Case No. 1,165.

To the honorable Samuel Treat, judge of said District Court:

The answer of the Madison County Coal Company, claimants herein, to the libel and complaint of the Illinois River Packet Company against the steamboat Francis Fisher, her engines, &c., alleges as follows:

First. That the allegations of the first article of said libel, they admit to be true.

Second. That so much of the second article of said libel as alleges that the barge Anna, and the steamboat City of Pekin be-

20 longed to the libellant at the time therein mentioned, these claimants believe to be untrue, and ask strict proof thereof, and think so much of said article as alleges that said boat and barge were seaworthy and properly manned, and sufficiently provided with tackle, apparel, and furniture, they believe to be untrue, and require strict proof thereof.

Third. That the allegations of the third article of said libel are in the main untrue. It is not true, as therein alleged, that on the morning of the 3d of April, 1866, the said steamboat Francis Fisher, with a coal barge in tow, came alongside of the barge Anna and struck her heavily on the side, by reason whereof the timbers of said barge were pressed in and her seams and butts opened, which cause her to leak.

Fourth. That the allegations of the fourth article of said libel are, in the main, untrue, and the truth is that no collision took place between the steamboat Francis Fisher and said barge and if any loss occurred it was occasioned solely by the carelessness and negligence

of those in charge of said barge Anna, and not by any fault or negligence of those on board or in charge of the steamboat Francis Fisher.

Fifth. That the allegations of the fifth and sixth articles of
21 said libel, are, in the main, untrue. These claimants deny that by reason of the alleged collision and loss of said barge the libellant was damaged in the sum of five thousand dollars. They say they have no knowledge or information sufficient to form a belief whether or not the cargo on said barge was of the value stated in said fifth article, or whether or not it was composed of the articles therein stated, or whether or not said cargo belonged to libellant, or whether or not said cargo was wholly lost as alleged, and require proof of each of said allegations. And they deny that the damage caused by said pretended collision was the sum of fourteen thousand five hundred and sixty-six 34-100 dollars as alleged.

Sixth. That these respondents allege that the loss of said barge Anna and cargo was not caused by any carelessness or negligence on the part of the steamboat Francis Fisher, or those in charge of her, or by any pretended collision whatever between said steamboat and barge, but that said loss was wholly caused by the unseaworthiness of said barge, and by the carelessness and negligence of those in charge of said barge, in placing her in an improper position where she was exposed to the current and to the waves from the boats passing up and down the river.

22 Seventh. That all and singular the premises are true; therefore respondent prays that said libel may me dismissed with costs.

(Signed) J. H. RANKIN,
J. K. KNIGHT,
Proctors for Claimants.

UNITED STATES OF AMERICA, *Eastern District of Missouri, ss:*

Cyrus T. Francis, president of the above-named Madison County Coal Company, claimants herein, and agent of said company in this behalf, being sworn, deposes and says, that to the best of his knowledge and belief, the allegations contained in the foregoing answer are true.

(Signed) CYRUS T. FRANCIS.

Sworn to and subscribed by said Cyrus T. Francis before me, at office in city of St. Louis, in said district, this 29th day of September, A. D. 1866.

(Signed) F. A. WERNER,
Comm'r of U. S. Circuit Court, districts of Missouri.

Return of process.

And on the first Monday, the first day of October, A. D. 1866, the marshal of said United States for this district returned into court the warrant of arrest and monition, and also the warrant of discharge

and delivery heretofore issued in this cause, together with his return of his proceedings thereon, and said warrants with said returns
23 thereon, were thereupon on said last-mentioned day, filed in the clerk's office of this District Court; and the return of said marshal upon said warrant of arrest is in the words and figures following, to wit:

Marshal's return on warrant of arrest.

UNITED STATES OF AMERICA, *Eastern District of Missouri, ss:*

I return on the within warrant that I have executed the same by arresting and taking into my possession the within-named steamboat Francis Fisher, her engines, machinery tackle, apparel, and furniture, at the port of St. Louis, in said district, on the 12th day of September, A. D. 1866, and by publishing in the Missouri Republican, a public newspaper published at St. Louis, in said district, the time set for the hearing of said cause, a copy of which publication is hereto attached and made a part of this return; also by posting a copy of said publication on the bulletin board in the post-office hall, the most public place nearest the place for the hearing of said cause.

(Signed) J. B. ROGERS,
U. S. Marshal Eastern District of Mo.
By W. B. ROGERS, *Deputy*.

And annexed to said return of said marshal, on said warrant of arrest, is a printed copy of a proclamation or notice in admiralty, which copy is in the words and figures following, to wit:

24 *Notice in admiralty.*

United States Marshal's Proclamation.

UNITED STATES OF AMERICA, *Eastern District of Missouri, ss:*

I, J. B. Rogers, United States marshal for the eastern district of Missouri, do hereby give public notice that in the case of the Illinois River Packet Company, libellant, against the steamboat Francis Fisher, her engines, machinery, tackle, apparel, and furniture, in a cause, civil and maritime, of collision and damage, did, on the 12th day of September, A. D. 1866, at the port of St. Louis, arrest and take into my possession for safe custody the steamboat Francis Fisher, her engines, machinery, tackle, apparel, and furniture; and I do hereby also give public notice that the time assigned for the return of said warrant and the hearing of this cause, is the first Monday, the first day of October next, A. D. 1866; and I hereby admonish and summon all persons claiming any interest in said steamboat Francis Fisher, or knowing or having anything to say why the same should not be decreed to be condemned and sold to answer the prayer of the said libellant, that they be and appear before said District Court, at its rooms, in the city of St. Louis, in said district, on said first day of October, 1866, at ten o'clock a. m., when and

25 where said cause will be heard, then and there to interpose their claims and answer said libellant, and make their allegations in that behalf.

J. B. ROGERS,
U. S. Marshal for the Eastern District of Missouri.

St. Louis, September 14th, 1866.

And the return of said marshal upon the warrant of discharge and delivery heretofore issued in said cause is in the words and figures following, to wit:

In the District Court of said United States, in and for said district.

Marshal's return on warrant of discharge.

UNITED STATES OF AMERICA, *Eastern District of Missouri, ss:*

I return on the within warrant that I executed the same on the fifteenth day of September, in the year of our Lord eighteen hundred and sixty-six, at St. Louis, Mo., in said eastern district of Missouri, by then and there discharing from my custody said steamboat Francis Fisher, her engines, tackle and machinery, and by then and there delivering said property to William A. Scudder.

(Signed) J. B. ROGERS,
Marshal of said United States in and for said district.

And at a regular stated term of this District Court, begun and holden at the city of St. Louis, in said eastern district, on Monday the nineteenth day of November, in the year of our Lord
26 eighteen hundred and sixty-six, the following further proceedings took place in this cause, on Monday the seventeenth day of December, in said last-mentioned year, to wit:

Hearing of cause.

In case No. 1,165, of the Illinois River Packet Company, libellant, against The Steamboat Francis Fisher, her engines, &c.,—No. 1,165.

This day came said libellant, by James O. Broadhead, esquire, its proctor, and also the claimant herein, by John H. Rankin and James K. Knight, esquires, its proctors, and on motion of said proctor for said libellant, the court ordered that this cause be now heard. The libel was read, and also the claim and answer of said respondent filed herein. The court thereupon ordered that the further hearing of said cause be continued until to-morrow morning.

And at said regular stated term of this District Court, begun and holden as aforesaid, the following further proceedings took place in this cause, on Tuesday the eighteenth day of December, in last-mentioned year, to wit:

Further hearing of cause.

In case No. 1,165, of the Illinois River Packet Company, libellant, against The Steamboat Francis Fisher, her engines, &c.,—No. 1,165.

This day came again the parties, by their respective proc-
27 tors, and the hearing of this cause having been resumed, said libellant read in evidence the deposition of John Warren, John L. Leach, and Daniel J. Hancock, taken in this cause on behalf of said libellant, and the hearing of said cause not being concluded at the hour of adjournment, the court ordered that the further hearing thereof be continued until to-morrow morning.

And at said regular stated term of this District Court, begun and holden as aforesaid, the following further proceedings took place in this cause on Wednesday, the nineteenth day of December, in said last-mentioned year, to wit:

Further hearing.

In case No., 1,165, of the Illinois River Packet Company, libellant, against The Steamboat Francis Fisher, her engines, &c.,—No. 1,165.

This day came again the parties, by their respective proctors, and the hearing of this cause having been again resumed, said libellant further read in evidence the depositions of William T. DeWitt, John Lockhead, Andrew C. Dunlevy, George Durgan, Stephen Conley, Henry Adkins, Thomas Denby and James Powers, taken in this cause on behalf of said libellant; and also gave in evidence the exhibits annexed, and accompanying said depositions taken on its
28 behalf. The evidence for said libellant being closed, the said claimant read in evidence the depositions of Otis T. Irons and William P. Christie, taken in this cause on behalf of said claimant; and the hearing of said cause not being concluded at the hour of adjournment, the court ordered that the further hearing thereof to be continued until to-morrow morning.

And at said regular stated term of this District Court, begun and holden as aforesaid, the following further proceedings took place in this cause, on Thursday, the twentieth day of December, in said last-mentioned year, to wit:

Further hearing.

In case No. 1,165 of the Illinois River Packet Company, libellant, against The Steamboat Francis Fisher, her engines, &c.,—No. 1,165.

This day came again the parties, by their respective proctors, and the hearing of this cause having been again resumed, the said claimant further read in evidence the depositions of William J. Dougherty, George W. Stanley, Logan Alexander, Moses F. Bagley,

James Abrams, Frederick Schreiber, Washington J. McCann, Joseph Mitchell, Edward H. Garrizues, Charles Mahaffey, John A. Bruner, William A. Scudder, Cyrus T. Francis and Nathaniel J. Eaton, taken in this cause on behalf of said claimant; and also gave in evidence the exhibits annexed and accompanying said depositions, taken
29 in its behalf, and further gave in evidence a certified copy of the enrollment of the barge Anna, issued out of the custom-house, at the port of St. Louis, and dated the 24th day of April, A. D. 1866.

The evidence being concluded, the court ordered the further proceedings herein be continued until to-morrow morning.

And at said regular stated term of this District Court, begun and holden as aforesaid, the following further proceedings took place in this cause, on Friday, the twenty-first day of December, in said last-mentioned year, to wit:

Cause argued and submitted.

This day came again the parties, by their respective proctors, and the hearing of this cause having been again resumed, James O. Broadhead, esq., argued for said libellant, and James K Knight, esquire, for said claimant. The arguments herein being concluded, said cause was thereupon submitted to the court, which, not being fully advised in the premises, took time to consider of its judgment herein.

And at said regular stated term of this District Court, begun and holden as aforesaid, the following further proceedings took place in this cause, on Monday, the seventh day of January, A. D. eighteen hundred and sixty-seven, to wit:

Final decree against claimant.—Condemnation of boat.

In case No. 1,165, of the Illinois River Packet Company,
30 libellant, against The Steamboat Francis Fisher, her engines, &c.,—No. 1,165.

This day came again the parties, by their respective proctors, and the court, on consideration of the pleadings and proofs and arguments of counsel in this cause, and being fully advised in the premises, did adjudge, order, and decree that the said libellant, The Illinois River Packet Company, are entitled to recover against the said steamboat Francis Fisher, her engines, machinery, tackle, apparel and furniture, the sum of ($14,566 34-100) fourteen thousand five hundred and sixty-six dollars and thirty-four cents, being the amount of damages sustained by said libellant by reason of the collision in its libel set forth, with interest on said amount from this day, and also the costs and expenses in this cause to be taxed; and the court condemned the said steamboat, her engines, machinery, tackle, apparel and furniture, to the payment to said libellant of said amount, with interest thereon as aforesaid, and also the costs and expenses in said cause to be taxed.

Judgment against stipulation.—Order of execution.

And the said steamboat, with her engines, machinery, tackle, apparel and furniture, having been released from arrest in this cause, and the claimant herein, The Madison County Coal Company, having
giving stipulations according to the rules and practice of this
31 court, with William A. Scudder, as principal, and John B. S.
Lemoine, John E. Liggett and Henry Dausman, as sureties, the court adjudged, awarded and decreed that the said libellant, The Illinois River Packet Company, recover against said claimant and its stipulators aforesaid, the said sum of fourteen thousand five hundred and sixty-six dollars and thirty-four cents, with interest thereon from this day, and also the costs in the cause to be taxed and ordered that in case of default or contumacy in the payment of said sum, with interests and costs, by said claimant, execution therefor shall be issued against the goods, chattles, and lands of the stipulators aforesaid.

And on the twelfth day of January, in said last-mentioned year, the following further proceedings took place in this cause, to wit:

Appeal presented and allowed.

In case No. 1,165 of The Illinois River Packet Company, libellant, against The Steamboat Francis Fisher, her engines, &c.—No. 1,165.

This day came the claimant in this cause, by James K. Knight, esq., its proctor, and presented to the court its petition of appeal in said cause; and the court, in consideration thereof, and on motion of said proctor, ordered that said petition of appeal of said claimant herein be, and hereby is, allowed.

32 *Bond approved.*

Said claimant, by its said proctor, also presented to the court its bond of appeal in said cause; and the court, in consideration thereof, approved said bond, and Joseph Gartside and John B. S. Lemoine, the sureties therein, and ordered that the record and proceedings in this cause be certified to the Circuit Court of the United States in and for the the districts of Missouri. And said petition of appeal was thereupon, on said twelfth day of January, A. D. 1867, filed in the clerk's office of this District Court, and is in the words and figures following, to wit:

Circuit Court of the United States for the districts of Missouri.

Petiton of Appeal.

The Illinois River Packet Company, libellant, *vs.* The Steamboat Francis Fisher and The Madison County Coal Company, claimants and appellants.

To the honorable the Circuit Court of the United States for the districts of Missouri:

The petition of appeal of the Madison County Coal Company,

claimants of said steamboat Francis Fisher, respectfully represents, that on or about the eleventh day of September, A. D. 1866, The Illinois River Packet Company, the above named libellant, exhibited its libel in the District Court of the United States for the eastern district of Missouri against the steamboat Francis Fisher, the
33 property of these claimants and appellants, alleging, among other things, that said steamboat Francis Fisher, on the morning of the third day of April, 1866, with a coal barge in tow, came alongside of the barge Anna, (the property of libellant,) and struck her heavily on the side, by reasons whereof the timbers of said barge were pressed in and her seams and butts opened, which caused her to leak and finally sink, and praying process against said steamboat, and damages against the same for the sum of fourteen thousand five hundred and sixty-six dollars and 34 cents; that said process, being duly executed, these claimants and appellants intervened and answered each and every allegation of said libel; that when said cause came on to be heard on the allegations and proofs adduced by the respective parties before the honorable Samuel Treat, judge of said District Court, the said judge having advised thereon, on the 7th day of January, 1867, made a decree or sentence in said cause, whereby it was among other things ordered and decreed that said libellant recover against these claimants and appellants the sum of fourteen thousand five hundred and sixty-six dollars and thirty-four cents. And
34 these appellants are advised and insist that the said decree is erroneous, insomuch as the same was not warranted by the allegations and proofs in said cause. And these appellants for these and other reasons, appeal from said decree and the whole thereof; and on said appeal they intend to have said cause heard anew in the Circuit Court on the pleadings and proofs in the District Court, and other proofs to be introduced by appellants in said Circuit Court; and appellants pray that the record and proceedings in said cause may be returned to said Circuit Court, and that the said decree may be reversed, or such other decree therein made, as to said Circuit Court shall seem just, and that the appellants may be restored to all things which they have lost or suffered by said decree, and that they may have such other and further relief in the premises as they are entitled to receive.

MADISON COUNTY COAL CO.
By C. T. FRANCIS, *Sut. and Agent.*
J. K. KNIGHT & J. H. RANKIN,
Proctors for Appellants.

And said bond of appellant herein was also thereupon, on said twelfth day of January, A. D. 1867, filed in the clerk's office of this District Court, and is in the words and figures following, to wit:

35 In the District Court of said United States in and for said district.

Bond of Appellant.

In case No. 1,165, of The Illinois River Packet Company, libellant, against The Steamboat Francis Fisher, her engines, machinery, tackle, apparel, and furniture.

UNITED STATES OF AMERICA, *Eastern District of Missouri, ss*:

KNOW all men by these presents that we, Cyrus T. Francis, as principal, and Joseph Gartside and John B. S. Lemoine, as sureties, are held and firmly bound unto The Illinois River Packet Company, the above-named libellant in the sum of fifteen thousand five hundred and [and] sixty-seven dollars, to the payment of which we bind ourselves, our heirs, executors and administrators, firmly by these presents.

The condition of the above obligation is such, that whereas, on the seventh day of January, in the year of our Lord eighteen hundred and sixty-seven, in said cause, in which the Madison County Coal Company is claimant, a decree was entered against said claimant and William A. Scudder, as principal, and John B. S. Lemoine, John E. Liggett and Henry Dausman, sureties in said claimant's stipulations filed in said cause, for the sum of fourteen thousand five hundred and sixty-six dollars and thirty-four cents and costs of said suit, from which decree the said Madison County Coal Com-

36 pany, claimant herein, has appealed to the Circuit Court of the United States for the districts of Missouri, to be held on the first Monday, the first day of the month of April, A. D. 1867.

Now, if the said appellant shall prosecute and appeal with effect, and pay all the costs of said suit and expenses and damages that may be adjudged against him on said appeal, then this obligation shall be void, but otherwise to remain in full force and virtue.

In witness whereof, we hereunto severally subscribe our names and affix our seals at the city of St. Louis, in said district, this 12th day of January, A. D. eighteen hundred and sixty-seven.

[SEAL.] C. T. FRANCIS.
[SEAL.] JOSEPH GARTSIDE.
[SEAL.] J. B. S. LEMOINE.

Signed, sealed, and acknowledged by said Cyrus T. Francis, Joseph Gartside and John B. S. Lemoine, the parties to the foregoing bond, before me, at office, in the city of St. Louis, in said district, this 12th day of January, A. D. 1867.

F. A. WERNER,
Commissioner of the U. S. Circuit Court for the District of Missouri.

UNITED STATES OF AMERICA, *Eastern District of Missouri, ss:*

Joseph Gartside and John B. S. Lemoine, sureties in the foregoing bond, being duly sworn, each and severally deposes and says
37 that he is worth, over and above all his debts and liabilities, the sum of thirty-one thousand dollars, and that he owns real estate to that amount, subject to execution, within said eastern district of Missouri.

JOSEPH GARTSIDE.
J. B. S. LEMOINE.

Subscribed and sworn to by said Joseph Gartside and John B. S. Lemoine, the above-named affiants, before me, at office, in Saint Louis, Mo., this 12th day of January, 1867.

(Signed) F. A. WERNER,
Commissioner of the United States Circuit Court for the Districts of Missouri.

Approved:
(Signed) SAMUEL TREAT, *Judge.*

And at said last-mentioned regular stated term of this District Court, begun and holden as aforesaid, the following further proceedings took place in this cause on Wednesday, the sixth day of February, in said last-mentioned year, to wit:

Further time to file transcript.

In case No. 1,165, of the Illinois River Packet Company, libellant, against the Steamboat Francis Fisher, her engines, &c.—No. 1,165.

On motion of the clerk of this court, the court ordered that the time for filing the transcript of appeal in this cause from this court to the Circuit Court of the United States in and for the districts of Missouri, be extended to, and including, the first Monday, the first
38 day of the month of April next.

[End of the Record.]

39 *Depositions on part of libellant.*

Depositions for the libellant read upon the hearing of the cause.

John Warren.

1. The deposition of John Warren, on behalf of the libellant, taken before Lillie L. Walbridge, esq., a notary public, of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the 28th day of November, A. D. 1866.

John Warren, 35 years of age; residence, Fulton co., Illinois; occupation, steamboat mate, deposeth and saith, in answer to interrogatories and cross-interrogatories, as follows, viz:

1st. int. Were you mate on the City of Pekin in April last?

A. Yes, sir.

2nd int. How long have you been mate of the City of Pekin?

A. Up to that time I had been mate of her something over a year. I went on her in March, the year previous to that, 1865.

3rd int. Were you acquainted with the barge Annie?

A. Yes, sir.

4th int. Do you recollect her being towed by the City of Pekin down to St. Louis last April?

A. Yes, sir; she was towed down.

5th int. Where from?

A. Peoria.

6th int. Did she met with any accident on the way from Peoria down?

A. No, sir.

40 7th int. How was the barge loaded? heavily, moderately, or lightly?

A. She was, I suppose, what would be called moderately, not heavily nor light. I have loaded barges heavier and lighter than she.

8th int. Do you know how much that barge can carry?

A. I have understood that her capacity was about 320 tons, but I dont't know; I can't tell; I never weighed the freight.

9th int. What condition was the barge in when she came to the port of St. Louis?

A. Her condition was good; good and tight.

10th int. Whereabouts was she tied up?

A. She was made fast to a barge this side the Belle of Pike.

11th int. What did the City of Pekin do then?

A. The Pekin let go the barge, and dropped down under the Pike, and hauled up under her stern; hauled into the wharf-boat.

12th int. How did you leave the barge Annie, after she was fastened? in what position?

A. Left her lying about straight with the current, or very near; one end against the barge Julia, I believe the name was, and the other end against the Pike.

13th int. Did you see the Fisher come in?

A. Yes, sir.

14th int. Where was the City of Pekin when the Fisher came in?

A. Under the stern of the Belle of Pike, hauling up to the wharf-boat.

15th int. Did you see the Fisher when she rounded out?

A. I could not see her plain, because I was on the forecastle of our boat, and the other boat was outside of us.

41 16th int. Had you finished fastening your boat when the Fisher went out?

A. No, sir; I don't think we had.

17th int. Where was the City of Pekin when the Fisher went out?

A. She was lying alongside the Maria Denning, hauling up to the wharf-boat. The Maria Denning lay below the wharf-boat. We came against her, and had to run a line to the wharf-boat and heave up.

18th int. Which gangway of the wharf-boat did the City of Pekin discharge her freight at?

A. At the end gangway; the lower gangway.

19th int. You say you could not see the Fisher when she went out?

A. No, sir, not plain. I could not see the barge from where I was; that is, I could not see up to the upper end of her, because the Pike was between us after we hauled up.

20th int. At the time when the Fisher was going out, was the Belle of Pike stationary?

A. Yes, sir; stationary, unless we were moving her a little; heaving in under her; might have moved her a little; I don't know as we did; might have swung her stern a little, not much,

21st int. Was it before or after the Fisher went out?

A. It was about the time the Fisher was in there.

22nd int. When the Fisher came in could you see the barge Anna?

A. Yes, sir.

23rd int. Was any one on the barge Anna at that time?

A. Yes, sir.

24th int. Who?

A. A man named Stephen Carnell.

25th int. What was his business?

A. Deck hand or roustabout.

42 26th int. What did you leave him there for?

A. To watch the barge; to take care of her.

27th int. Anybody else on the barge?

A. Nobody that I know of; there might have been others, but nobody that I left there.

28th int. Did you see Mr. Hancock there?

A. I saw him run over there when the Fisher was coming in, and heard Mr. Hancock halloa to the Fisher not to land against the barge.

29th int. How far were you from Mr. Hancock when you heard him halloa to the Fisher not to land against the barge?

A. Not but a few feet. He was on the Pekin. I can't say just what distance; not very far.

30th int. Could you see how close the Fisher came to the barge Annie as she came in?

A. No, sir; I don't know. I could see her come up alongside of her. I can't say how close she came to her, I could suppose how close, but suppositions will not go.

31st int. Could you hear any reply from the captain of the Fisher to the remark of Mr. Hancock?

A. I do not remember that I did. He may have replied, but I don't remember now.

32nd int. How much was the Belle of Pike moved up stream by the City of Pekin going in under her in the manner you state?

A. Well, I don't know as I saw how much she was moved up. I don't remember whether she laid straight up and down the

43 wharf-boat when we started to haul her out. If she laid straight alongside the wharf-boat, we would haul her out—her stern out—probably thirty feet. She might have laid straight, or

might have had her head hauled in so her stern laid a little out. I don't remember now just how she lay.

33rd int. Was there any boat or barge at that time between the City of Pekin and the Maria Denning?

A. No, sir; we landed, dropped right against the Maria Denning.

34th int. What was the space between the Belle of Pike and the Maria Denning when you went in under the Belle of Pike?

A. Well, the space would be—take from the stern of the Pike to the Maria Denning—it was at least 40 or 50 feet.

35th int. You came in between the Denning and the Belle of Pike?

A. Yes, sir.

36th int. What was the width of your boat?

A. 34 feet, I believe it is.

37th int. The Maria Denning was not moved from her position, was she?

A. No, sir.

38th int. If there was a space of 40 feet between the Belle of Pike and the Maria Denning, and you came in between them, how much would it be necessary to move the Belle of Pike in order to get your boat in?

A. Both boats did not lay in the same position. The Pike laid up and down the river, the Denning with her stern or quartering
44 out in the river. Well, it would not be necessary to move the Pike not over 30 feet, if she laid against the wharf-boat.

39th and 40th int. Would it be necessary to move it as much as that, if there was forty feet distance between them?

A. I don't know as it would; I can't say just exactly, because I don't remember how close they were together. They might have been more than that distance apart; I don't remember just how far they was.

41st int. When the Fisher backed out into the stream, had the City of Pekin made her landing?

A. I don't just remember now whether she had or not; I was busy hauling the Pekin in there, and I don't remember whether she had or not.

Cross-examination.

By the respondent:

1st x-int. How long were you on the City of Pekin as mate? You are mate on the Pekin?

A. I was at that time.

2nd x-int. In whose employ are you now?

A. The Illinois River Packet Company.

3rd x-int. Still in their employ?

A. Yes, sir; have been ever since.

4th x-int. How long was this barge lying there before the Pekin effected a landing alongside the wharf-boat?

A. Well, I don't think to exceed about half an hour.

5th x-int. Took you about half an hour to get in?

A. Yes, sir; about that; somewhere about that time.

6th x-int. How soon after the Annie was tied up there was it that she sunk?

A. I did not see her sink. I was down at the time. I went
45 home as quick as I landed. I left her soon after that time, and went home as quick as I got the boat made fast.

7th x-int. How long was the Fisher there from the time she got in outside the barge?

A. I can't say how long.

8th x-int. One minute, five minutes, or ten?

A. I don't know how long she stopped, because I was not noticing her. I was getting the Pekin in.

9th x-int. How were you heaving her in?

A. With the capstain.

10th x-int. Where was the shore end of the line fastened?

A. To the wharf-boat.

11th x-int. Which part of the wharf-boat, the middle, upper, or lower ends?

A. About the middle of the wharf-boat. I don't remember just where the line was particularly, at that time either; we generally run a line to the middle of the wharf-boat when we heave in that way.

12th x-int. What length of line did you have out when you commenced to heave in?

A. I don't know.

13th x-int. Was it 100 feet?

A. No, sir.

14th x-int. Fifty feet?

A. Yes, sir, it was 50 feet, I should judge. I can't remember just at that particular time what cavel we had to make the line fast to, and there is so many on the wharf-boat. I don't remember which it was made fast to.

15th x-int. Do you remember whether it was below the middle or above?

A. No, sir; I did not see the cavel. I know there are two or three in the middle, and some on the forward end.

16th x-int. Suppose you were preparing to unload a boat
46 at the lower gangway, would you put her in the cavel at the lower end?

A. If I had to have her at the stern of the wharf-boat I would. It would not make any difference anyhow, because the line would lead the same way if up—up at the far end.

17 x-int. Did you heave her at the stern of the wharf-boat?

A. We had to heave her inside the Pike.

18th x-int. So as to avoid friction on the Pike?

A. On the wharf-boat principally, and the Pike too; for she was headed in for the wharf-boat.

19th x-int. Was she bearing at the time hard on the Pike?

A. No, sir.

20th x-int. Touching her?

A. I can't say whether it was or not, now.

21st x-int. Was she touching the Maria Denning?

A. Yes, sir; down against the Maria Denning; that is, while I had to heave her up.

22nd x-int. She was then touching the Pike, you say?

A. Well, I can't say that she was; if the Pike's stern was into the river, she was not.

23rd x-int. Suppose it was not?

A. Then she was touching her.

24th x-int. Pretty strong, wouldn't she?

A. Pretty strong; not very.

25th x-int. Enough to displace her in the water and push her up?

A. Yes, sir.

26th x-int. Now you say the Maria Denning did not move?

A. No, sir; our weight might have swung her down some.

27th x-int. But I thought you said in your examination she didn't move?

A. I say she didn't move; that she was perfectly solid; I can't say that; she might have moved a little. It would not be like lying against a warehouse. If she moved an inch, she moved.

28th x-int. Now, was that the first hitching of the shore
47 end of that line, or did you remove it before you got the boat in?

A. I don't know whether I did or not.

29th x-int. Just think.

A. I can't tell, because I land so often. I can't remember every time we make a line fast.

30th x-int. You remember some other facts. Try and remember whether you removed the shore end of that line.

A. No, sir; I don't know whether I did or not.

31st x-int. You cannot tell?

A. No, sir; I would not undertake to say.

32nd x-int. Where do you say you discharged the Pekin at?

A. At the end gangway of the wharf-boat.

33rd x-int. There are three gangways?

A. Yes, sir; We used two, and the Naples Packet Company one.

34th x-int. Which did you use?

A. The middle and lower one.

35th x-int. What boat was at the middle one?

A. None.

36th x-int. Are you quite certain that you discharged the Pekin at the lower gangway that trip?

A. Yes, sir.

37th x-int. Just as much as you are of anything else?

A. Just as much as I ever was of anything.

38th x-int. Were you there when she was discharging, all the time?

A. Not all the time.

39th x-int. Was it usual for her to discharge there?

A. No, sir; it was usual for her to discharge at the middle gangway.

40th x-int. Do you now swear you did not discharge her at the middle gangway?

A. I do that.

41st x-int. Sure?

A. Sure; when we discharge at the middle gangway we discharge at both gangways, unless a boat is lying at the lower one.

42nd x-int. There was none lying at the middle one; nothing to prevent discharging there?

A. Unless the levee was blocked up.

48 43rd x-int. Was there any trouble about it?

A. No, sir; we could have got up there.

44th x-int. Did you see the barge Annie after she sunk?

A. Yes.

45th x-int. When?

A. I saw her as soon as I came back from home.

46th x-int. When did you come back?

A. That same forenoon. I was gone probably an hour, may be, and a half; when I come back she was lying between the Pike and the Pekin.

47 x-int. The barge Anna was?

A. Yes, sir.

48th x-int. How? What was her position?

A. Lying right on her side; one side of her was up.

49th x-int. Between the Pike and the Pekin?

A. Yes, sir.

50th x-int. She was lying straight across the current, or straight up and down?

A. Straight up and down, or nearly so.

51st x-int. Was she not under the Pike?

A. Not when I saw her.

52nd x-int. How much could you see?

A. I could see 100 feet.

53rd x-int. How long is she?

A. 150 feet.

54th x-int. How long have you known that barge?

A. I have known it since the summer previous; some time she came out; was brought home.

55th x-int. When did you leave on your boat? Did the Pekin leave soon after you got her discharged?

A. We left about 4 o'clock that evening; the same day.

56 x-int. Did you see any efforts made to raise the barge?

A. No efforts made to raise her; efforts made to make her fast; to keep her from getting away.

57th int. How?

A. To get a line on her to hold her to the wharf-boat, so the current would not carry her away.

58th x-int. Did you see any efforts made to turn her over?

A. No, sir.

59th x-int. Did not your boat pull at her?

A. I don't remember whether we pulled her at that time or

49 not; we did afterwards.

60th x-int. When?

A. Another trip after that?

61st x-int. How long was that?

A. About three days.

62nd x-int. What did do you towards pulling her?

A. I say we pulled her the next trip. I don't know whether it was the next or not. I remember we pulled at her one trip. We made a line fast to her, backed out into the river, and I tried to pull her out.

63rd x-int. Did you succeed? How did you fasten your barge line when you undertook to pull her?

A. The chain was made fast to the barge; I did not make it fast.

64th x-int. Do you know how?

A. By a hole bored there.

65th x-int. Where you there when it was bored?

A. No; I could see the chain come through the hole.

66th x-int. It was bored through what?

A. Through her bottom, I think.

67th x-int. Did you see them bore the hole?

A. No, sir; I saw the chain the chain there.

68th x-int. Do you know when the hole was bored there?

A. No, sir.

69th x-int. Did you see the chain fastened to it?

A. Yes, sir.

70th x-int. How?

A. Passed through the hole and around the timber; the ends of the chain were made fast together, and a line made fast to the chain.

71st x-int. Then you fastened your line to the end of the chain?

A. There was a line already fast in it, in the chain, and they gave us the line to pull with, and we backed out.

72nd x-int. What did you then do?

A. Parted the chain.

73rd x-int. Did you see what effect that had on the barge?

A. Not any; it might have moved her a little, not much; not enough to do any good.

74th x-int. What were you trying to do?

A. Trying to pull the barge out.

75th x-int. To turn her over?

A. To pull her out.

76th x-int. Would not the effect to be turn her over first?

A. Pulling that way?

77th x-int. Yes.

A. Not if the chain was made fast in the bottom.

78th x-int. Do you know how the chain was fastened to her?

A. If I remember right, it was fastened on her bottom.

79th x-int. Don't you remember right? can't you remember right?

A. I saw a line made fast in her side and bottom, the first line in her side; a hole was bored in her, and this chain might have been made fast in her side also.

80th x-int. Was there an anchor fastened to her?

A. I never saw any, I couldn't see any.

81st. x-int. At any time?

A. Might have have had one; I did not see any.

82nd x-int. You got back about two o'clock in the afternoon, did you?

A, No, sir; I got back that same forenoon.

83rd x-int. What time?

A. I came back about 11 o'clock, I think.

84th x-int. Where was she then?

A. Between the Pike and the Pekin.

85th x-int. She had got round, had she?

A. Yes, sir.

86th x-int. Turned bottom up?

A. Laying on her side at that time.

87th x-int. Did you notice any breach in that barge?

A. No, sir.

88th x-int. Did you look at her?

A. I could not look at her lying in the water.

89th x-int. You say you saw 100 feet?

A. I could see nearly the length of the barge sometimes; sometimes she would get under water and then come up.

90th x-int. Could you see the knuckle-seam?

A. On one side.

91st x-int. What did that look like?

A. Looked like it always did.

51 92nd x-int. Sound?

A. I could not see anything the matter with it.

93rd x-int. Straight and apparently in good condition?

A. Yes; I could not see anything the matter with it; there might have been.

94th x-int. Did you notice the thickness of the plank on that barge?

A. No, sir.

95th x-int. Was she lying bottom up when you saw the 100 feet?

A. Along on her side.

96th x-int. Which side? that is, speaking with reference to her, when she would be righted up and ready for running.

A. There is no particular side to a barge of that kind, they are alike at both ends of a model barge.

97th x-int. Take the end lying up the river for the bow, now which side would it be when she was righted up—which side you saw?

A. The starboard side.

98th x-int. What width of the barge did you see out of water or in the water?

A. I could see more at one time than others, because she rolled with the swells, sometimes a good deal out of water and sometimes not much.

99th x-int. Could you see the whole side?

A. Not at one time.

100th x-int. Did you see at different times?

A. I guess I could, if I stood and watched the swells. One end would raise up, and the other go down.

101st x-int. You didn't know when she sunk, did you?

A. I did not see her sink.

102nd x-int. You went home?

A. Yes, sir.

103rd x-int. Didn't come back till when?

A. About 11 o'clock, I guess.

104th x-int. And when you came back, you then saw the
52 barge lying between the Pike and the Pekin?

A. Yes, sir, right in between; the two other boats were lying outside the wharf-boat.

105th x-int. How near to the wharf-boat, when you came back—the nearest part of her?

A. I think she touched the wharf-boat.

106th x-int. How high above the bow of the Pekin was the end up the river?

A. It would be 50 or 60 feet.

107th x-int. From the bow of the Pekin when you landed?

A. Yes; fifty feet, I judge, anyhow.

108th x-int. And the nearest part of the sunken barge would be within fifty feet of the bow of the Pekin?

A. I understood you to ask how far the bow of the barge was from the bow of the Pekin?

109th x-int. No; how far was the nearest part of the sunken barge to the Pekin, when you came back at 11 o'clock?

A. She touched the Pekin.

110th x-int. She was lying straight up and down, alongside the wharf-boat?

A. No, sir. Her stern was outside the Pekin.

111th x-int. The stern of the sunken barge?

A. Yes, sir; outside the Pekin.

112th x-int. Of the bow of the Pekin?

A. Outside the City of Pekin; she run alongside the Pekin, past her bow?

113th x-int. I am speaking of the bows of the sunken barge, at 11 or 9 o'clock, when you came down.

A. About 11, I guess; I don't remember just how long I had been home.

114th x-int. About 11. Now describe the position of the
53 sunken barge at 11 o'clock, when you came down, whatever time it was, with the reference of the wharf-boat l

A. One end of her laid against the wharf-boat and the other end laid outside of the Pekin.

115th x-int. Now, which direction was she lying; quartering which way?

A. Her stern was quartering out in the river—down stream, that is what we would could call—her bow was laying against the wharf-boat, and stern quartering afer she was sunk; at 11 o'clock this was, and her stern was quartering out above the Pekin.

116th x-int. Then she was lying exactly between and parallel with the Pekin and the Pike?

A. Well, she would not lie parallel with the Pekin and the Pike, because the Pekin lay more with her stern in the river than the Pike. The Pike lay so far above her, she (the Pike,) lay staighter with the current than the Pekin. The barge was still in another position, not parallel with any, because she was far above; lay straighter with the Pekin than the Pike.

117th x-int. Now when your came at 11 o'clock, the barge was over; that is to say, was sunk, but not in contact, or lying under, or crowding under any boat or vessel lying there—just moving with the water?

A. Yes, sir; any swell of the ferry-boat would move her.

118th x-int. At what time could you see the lower knuckle-seam?

A. I don't know but I have made a mistake about the position of that barge. I am not certain that she did not lay under the Pekin.

54 119th x-int. Come to recollect it now; can't you recollect that?

A. I would not be positive now, but what the barge went under, and lay under the Pekin.

120th x-int. Make your correction.

A. I don't know just whether she lay under the Pekin or not. The barge was worked about, up and down; sometimes it would come out of the water, and sometimes under, but I don't remember just whether she lay under the Pekin. If she lay under the Pekin, she would not be apt; she might have dove under the Pekin, and come up again with the swells of the ferry-boat.

121st x-int. Were the swells of the ferry-boat violent?

A. Not very. A steamboat is apt to make swells, more or less, that will move a barge.

122nd x-int. How high did the swells run in there?

A. I could not see how high.

123rd x-int. Are they a foot high?

A. Yes, sir.

124th x-int. Now, you won't be certain whether she was under the bow of the Pike?

A. I am certain she was not under the bow of the Pike.

125th x-int. You are certain?

A. No, sir, I didn't see her under the bow of the Pike, never.

126th x-int. Did you ever see her under the Pike at all.

A. No, sir.

127th x-int. Where was the bow or upper end of the barge fastened to when she lay in this sunken condition?

A. She was made fast up to the bow of the wharf-boat.

128th x-int. Certain?

A. Yes, sir.

129th x-int. She was fastened to the bow of the wharf-boat when she sunk?

55 A. No, sir; she was made fast to the barge when she sunk.

130th x-int. What barge?

A. The Julia.

131st x-int. Then, after 'she was sunk, you say her upper end was fastened to the wharf-boat?

A. Yes, sir; that is where she lay when I came back from home; she was made fast to the bow of the wharf-boat.

132d x-int. And the same end fastened to the Julia was then fastened to the wharf-boat?

A. I can't say; I could not suppose the barge would turn clear round and get the other end up there.

133d x-int. In her sunken condition you think she could not?

A. She might.

134th x-int. How near the wharf-boat was the upper end of the sunken barge?

A. She was; I can't say just how many feet; her bow was just below the Pike's gangway; just below her stage.

135th x-int. What do you mean by her bow—you say they are both?

A. The end that was up the river.

136th x-int. Was just below the Pike's gangway?

A. Yes, sir.

137th x-int. Then where would the stern of the barge be?

A. That would be about—I don't know where just.

138th x-int. Right in front of the Pekin, would it not?

A. Below or down alongside the Pekin.

139th x-int. How could the Pekin be at the gangway after the barge landed there?

A. The barge was not there when we landed.

140th x-int. How did the barge get there, if the Pekin lay there?

A. The barge lay above the Pekin, between the Pekin and the Pike.

141st x-int. How did it get between the Pekin and the
56 wharf-boat?

A. I never said she was between the Pekin and the wharf-boat.

142d x-int. I thought so.

A. No, sir.

143d x-int. Supposing the bow or upper end of the barge to be fastened to the Pike's gangway—the upper gangway of the wharf-boat—suppose the upper end of the barge, bow or stern, to be fastened up by the Pekin's gangway, where would the stern be, supposing it were lying along the wharf-boat?

A. You have got the two boats mixed up.

144th x-int. You say the upper part of the barge was made fast to the wharf-boat?

A. Yes.

145th x-int. How far was the upper end of the barge, I ask, from the end of the wharf-boat?

A. I don't know how many feet, just aft the Pike's gangway.

146th x-int. Now; if she was lying with the wharf-boat, where would her stern be then, if she was just aft the Pike's gangway?

A. It would be way below the Pekin.

147th x-int. Was that her position?

A. I think not; I think she lay the other way.

148th x-int. That her stern lay out in the river between the Pike and the Pekin?

A. Yes, sir; that is my impression. She might have been under the Pekin; the barge had moved so when I came back. I ask to make that correction in my evidence; I won't be positive.

149th x-int. You say now the barge was under the Pekin, or might have been?

A. She might have been under the Pekin—I don't know whether she was or not—at the time I came back.

150th x-int. If she was under the Pekin, then she would
57 be lying apparently with the wharf-boat?

A. Well her stern out below the wharf-boat.

151st x-int. You mean lying under the bow of the Pekin, or under her hull?

A. She would have to go beyond her bow if at all, because the Pekin's guard is not as wide as the barge.

152d x-int. What is your best recollection? was it under the guard, or not?

A. I can't remember whether it was or not.

153d x-int. Assuming now that that was her position, along parallel, or nearly so, with the wharf-boat, then you could see the whole length of the barge, could'nt you?

A. No, sir; not if she was under the Pekin.

154th x-int. Assuming she was not under the Pekin—you say you don't know whether she was or not.

A. No, sir; I do not.

155th x-int. Assuming that she was lying parallel with the wharf-baat, the upper end tied near the Pike's gangway on the wharf-boat. then you could not see the entire length of that barge?

A. No, sir; not if she was along parallel with the wharf-boat.

156th x-int. Why?

A. Because if she lay parallel with her she would have laid under the Pekin. I could see that.

157th x-int. Then that convinces you she could not have been under the Pekin?

A. Well, I ask to make that correction; I seen the barge laying there so many times hat day.

158th x-int. What correction do you wish to make?

A. Just say that I don't remember whether she was laying under the Pekin or not, at the time I came back from home.

159th x-int. On the day she sunk?

A. Yes.

160th x-int. What is the length of the barge?

A. About 150 feet.

58 161st x-int. What is the length of the wharf-boat?

A. I don't know what; about, I guess, 220 or 240 feet.

162d x-int. What is the length or width between the gangways?

A. About one-third of that distance divided aft, into three parts; about equal distances, I guess.

163d x-int. About 80 feet?

A. Yes, sir; somewhere about that. I don't know that that is just the length of the wharf-boat. It could'nt be that, of course, because the gangway is not on the end of the wharf-boat.

164th x-int. Is the middle gangway right in the middle of the wharf-boat?

A. No, sir; it is above the middle of it. I don't say it is right in the middle, but above, about a third of the distance from the forward end of the boat.

165th x-int. Now, how far is the lower gangway from the stern of the wharf-boat?

A. Well, we can have a gangway there for 80 or 90 feet, I guess, because there is nothing in the way; we can work over any part; sometimes the stage is in one place and sometimes in another. It is not stationary.

166th x-int. How much could you now see of this barge at 11 o'clock when you came down—of the sunken barge?

A. Well I say I don't know just how much I could see at that time.

167th x-int. You looked at it?

A. I did.

168th x-int. Did you go on it?

A. No, sir.

160th x-int. About how much of it could you see at that time?

A. Well, I can't say how much at that time.

170th x-int. Twenty-five feet?

A. Yes, sir; I don't know though that I could see 25 feet
59 at that time. I have got that mixed up with what I saw in the evening, when I said I could see a long distance of her;
100 feet.

171st. x-int. At 11 o'clock you think you saw about 25 feet?

A. Yes, sir.

172d x-int. Was that the side or bottom?

A. The side.

173d x-int. Could you see the knuckle-seams, both of them, the upper and lower

A. I think I could.

174th x-int. Were they sound?

A. Yes, sir; as far ar I could see.

175th x-int. You looked?

A. I did not notice any more than any other part of the barge.

176th x-int. Did you notice any breach or break at any place?

A. No, sir.

177th x-int. Apparently perfect and sound?

A. Yes, sir.

178th x-int. In the afternoon you saw the seam, you say, in the neighborhood of 100 feet?

A. Yes, sir.

179th x-int. Was it sound there?

A. I did not notice. It was not sound.

180th x-int. Did you look at it? If it had been unsound or a breach in it, you would have noticed it; would'nt you?

A. Yes, sir.

181st x-int. It was not careless—you looked to see if there was any breach?

A. I don't know that I looked for that particular purpose.

182d x-int. If there had been any breach or crack, would you have seen it?

A. There might have been a crack. I could'nt see if there had been a hole there.

183d x-int. If the seams had been open could you?

A. No; the oakum might have been sprung out, and I could'nt see it.

184th x int. Why?

60 A. Because I was not close enough to see it. I did'nt examine close enough to see if the oakum was out.

185th x-int. You say you went aboard the barge at one time?

A. Not that day. I saw the end of her after she sunk, when she lay on the bank.

186th x-int. You went aboard of her as she lay sunk?

A. Yes; afterwards.

185th x-int. Was she steady?

A. That day?

188th x-int. Yes.

A. No, sir

189th x-int. Was she when you went aboard of her?

A. I can't say now. I went across her so often when she lay on the bank.

190th x-int. About how soon after she sank was it you went on her?

A. I don't know; it might have been a week; it might have been three days, or two or three weeks. I don't know the time I went aboard of her.

191st x-int. The first time you went aboard of her, was she steady—laying on anything, or rocking?

A. I don't remember. I might have went aboard of her when the bell boat was at work there. I don't remember whether she was steady or not.

192d x-int. When you went aboard of her, how much did you walk over her; her whole length?

A. No, sir; I can't—

193d x-int. Her side? Was she bottom upwards then?

A. Yes, sir.

184th x-int. When you saw her first she was on her side?

A. Yes.

195th x-int. While she was lying bottom up did you notice her knuckle-seams?

A. No, sir.

196th x-int. Could'nt you see them?

A. Yes; I never noticed particularly.

61 197th x-int. You didn't see anything wrong with them?

A. No, sir.

198th x-int. At any time?

A. No.

199th x-int. When you first came down at 11 o'clock, and could see about 25 feet of the sunken barge, what part of the barge was it that you saw, the upper or lower end?

A. The upper end.

200th int. Where was it?

A. It was along between the Pike and the wharf-boat.

201st x-int. Did you see the lower end?

A. No, sir.

202nd x-int. That morning, or not till the afternoon?

A. I don't think I did; I don't know that I saw the lower end till the afternoon.

203rd x-int. Then it was you saw the whole of this space of 100 feet?

A. Yes, sir.

204th x-int. You saw nothing wrong in any part you then saw?

A. No, sir; I did not see anything wrong.

205th x-int. Did you go aboard of her then?

A. No, sir.

206th int. Were others going aboard or walking on the barge?

A. No, sir; I did not see anybody.

207th x-int. It was bobbing up and down then?

A. Yes, sir.

208th x-int. The men that went there with a yawl and made her fast; did you see them make her fast?

A. No. I saw the yawl there after it was done.

209th x-int. Then you know nothing about making her fast?

A. I could see where she was made fast; I did not see it done.

210th x-int. In order to fasten her to the wharf-boat they must have let the line loose of the Julia, of course?

A. I suppose they did; I don't know anything about that

62 line; they had a line off Pekin, to make her fast to the wharf-boat; took one of the Pekin's head lines.

211th x-int. What was the distance from the stern of the barge Julia to the upper end or bow of the wharf-boat?

A. I don't know the exact distance; she was laying outside the Pike.

212th x-int. I want the distance from where the barge Annie was fastened to the Julia, to the bow of the wharf-boat.

A. I don't know as I can tell the exact distance; she lay outside the Pike in such a position that I can't just give it.

213th x-int. Was it 150 feet?

A. I don't know as it was.

214th x-int. She was not quite as much, you think?

A. I don't know just how far it was; I never went across that way, and I don't know just how far it was.

215th x-cross-int. To the best of your information?

A. I should say I don't think it was over 100 feet; I don't know as that far.

216th x-int. Was the Pike lying close to the upper end of the wharf-boat?

A. Yes.

217th x-int. Fastened to it?

A. Yes.

218th x-int. Was the Pike at the upper gangway?

A. Yes, sir.

219th x-int. Now, the Julia lay right in contact with her or close up?

A. She lay against the Pike.

220th x-int. Against the bow of the Pike?

A. Yes, sir.

221st x-int. Then it would be only the distance across the Pike and Julia to where this barge was fastened?

A. More than that, because the barge Julia did not lay right up and down with the Pike.

222nd x-int. She lay quartering down?

A. Yes, sir. Her bow was in above the wharf-boat, and
63 her stern stuck out in the river.

223rd x-int. Now it would be then in the neighborhood of 150 feet, or 100, you think?

A. I say 100 feet; I don't know how far; I cannot tell, because I did not notice particularly just the distance across there; she lay in such shape, I can't tell just how far it was across; it was a pretty good long distance.

224th x-int. It was not 200 feet, I suppose?

A. No, sir; I don't think so.

225th x-int. It would be about 150?

A. I don't know but it was; I can't tell how far.

226th x-int. I want to get your best impression about it.

A. It would be 100 feet and over, anyhow.

227th x-int. From the end of the wharf-boat?

A. Yes, sir.

228th x-int. From the stern of the barge Julia; that is, from the place where the bark Anna was fastened to the bow of the wharf-boat?

A. Yes, sir.

229th x-int. Could you tell any better from the Pike's gangway to where the bark Anna was fastened?

A. I don't know as I could, because——

230th x-int. How far is the Pike's gangway from the bow of the wharf-boat? How many feet?

A. They can work within 10 or 15 feet of the bow of the wharf if they want to.

231st x-int. How far from the bow of the wharf was the bow of the Pike then lying?

A. I guess the bows of the two boats was about even with one another.

232nd x-int. With reference to the river?

A. Yes.

233rd x-int. The one about as high up as the other?

A. Yes.

234th x-int. Where was the bow of the Julia compared with
64 the bow of the Pike?

A. Above her.

235th x-int. Still above?

A. Yes.

236th x-int. What is the length of the Julia?

A. From 125 to 150 feet in length.

237th x-int. Longer than the Anna?

A. I don't think quite as long.

238th x-int. Do you know the width of the Anna?

A. 24 feet, if I remember right.

239th x-int. When you came down at 11 o'clock, she was lying down the river—the bow of the barge Anna—that is, speaking with reference to the time you left her tied to the Julia; was it the bow or stern of the Anna that lay down the river?

A. I can't say positive. I do not think the barge could have turned round in the river under the Pike.

240th x-int. Do you know?

A. No, sir; I don't know positive, because it might have turned round, but I think not. I did not see the barge go under; I did not see the barge sink.

241st x-int. You don't know whether it was the end fastened to the Julia when you left her, or whether the stern?

A. No, sir; I don't know how the stern could ever get there, if it was her stern.

242nd x-int. Where is Stephen Carnell?

A. I don't know.

243rd x-int. What was he?

A. Roustabout. I understand he was on the Olive Branch. I have not seen him for some time.

244th x-int. Where was Mr. Hancock, when you heard him hallow to the captain of the Fisher?

A. On the Pekin.

245th x-int. Whereabouts?

A. I think standing within a few feet of me on the forecastle starboard side.

246th x-int. Had the Pekin effected her landing when the
65 Fisher left or went out?

A. I do not remember seeing the Fisher when she went out. I was inside the Pike, and could not see.

247th x-int. When the Fisher came in, what was the position of the Pekin?

A. Alongside the Maria Denning.

248th x-int. Straight up and down the current?

A. No, sir.

249th x-int. Was her stern out?

A. Yes, sir; lying out.

250th x-int. Had you then got your boat, so the Fisher could come in?

A. I saw the Fisher come along past there.

251st x-int. How far did she come from the Pekin?

A. She was out some little distance.

252nd x-int. How far?

A. Probably 150 feet; may be 200 from where I was. It must have been more; a good long distance. I was on the forecastle of the Pekin; she was out in the river; may have been 300 feet.

253rd x-int. When you saw the Fisher coming in, was she out in the neighborhood of 200 feet?

A. Yes, sir; somewhere.

254th x-int. How near was she to the Anna when you saw her in the channel; 200 feet from the Pekin where you were?

A. I noticed her when Mr. Hancock halloed; probably 50 or 100 feet from the Anna.

255th x-int. The Anna was above you?

A. Yes.

256th x-int. You had landed her?

A. The Anna? Yes.

257th x-int. And dropped down?

A. Yes, sir.

258th x-int. How far did you drop below the Anna before you commenced to work the Pekin in?

A. We dropped down below her; we would have to go down 50 feet anyhow, below her, to get under the Pike.

259th x-int. Now, in putting out your line, did you put it through the wheelhouse of the Pike?

66 A. I don't know whether I got a line out of the Pike that day or not.

260th x-int. Didn't you haul the Pike up?

A. We might have shoved her up without hauling her up.

261st x-int. Didn't you haul her up?

A. I don't remember it.

262nd x-int. Did you put the first line you put out? or at any time in getting the Pekin in; didn't you put it through the wheelhouse of the Pike?

A. I don't know whether we run a line to the Pike's wheelhouse that day or not.

263rd x-int. Were you working the capstan of the Pekin?

A. Yes, sir.

264th x-int. Did you commence working the capstan as soon as you landed there, as soon as you commenced endeavoring to get her in?

A. I have to commence to clear the freight away from it as I got it ready.

265th x-int. You commenced working the capstan as soon as you got ready?

A. Yes, sir.

266th x-int. What time did your boat land here?

A. About 8 o'clock in the morning.

267th x-int. How soon did you commence working her in under the stern of the Pike?

A. As soon as we got the barge landed and dropped down. We landed the barge and then dropped down.

268th x-int. Do you remember where you fastened the shore-end of the line first?

A. No, sir; I do not. We might have taken it to the Pike or the wharf-boat; I don't remember; might have hauled the Pike out or shoved her out.

269th x-int. Suppose you had hauled her out, where would you have fastened the line?

A. To her water-wheel beam.

270th x-int. Suppose you had shoved her out, where would
67 you have fastened the shore end of the line?

A. Wouldn't have any line in there to shove her out.

271st x-int. Now, where would you put the shore end of your line if you shoved her out?

A. Would not put out any line at all. It would not be necessary to have a line at all.

272nd. x-int. You did have a line?

A. We did to haul her up to the side of the wharf-boat.

273rd x-int. Was not this line to bring her in between the two boats?

A. That or any other line might have been.

274th x-int. Whether it was hauling, shoving, or pushing, you did have two other lines?

A. Yes, sir.

275th x-int. And the capstan?

A. Yes, sir.

276th x-int. Now, don't you remember the first line you put out you fastened it to the timber of the Pike?

A. No, sir; I don't remember whether I put a line there that day. We often do run a line there, but I don't remember that I ran one there that day at that time.

277th x-int. If you didn't have to misplace the Pike in order to get a proper landing, you wouldn't have had to use the capstan, would you?

A. Yes; we would have to use that anyhow, because we dropped to the side of the Maria Denning. We lay so that they could not get head up with the rudders.

278th x-int. Did you have steam up?

A. Yes.

279th x-int. In effecting your landing, how much did you misplace the stern of the Belle of Pike?

A. As I said before, I don't know certain whether she lay beside the wharf-boat or not; whether her stern was against the wharf-boat or not.

68 280th x-int. If it was not, you would have to displace and shove her up 30 feet?

A. Yes, sir; the width of the boat.

281 x-int. If her stern lay out there would be no necessity for fastening lines to the timber of the wheel-house?

A. No, sir; if we could get her under so we could shove her out we wouldn't need a line.

282nd x-int. What was the barge loaded with?

A. Grain, pork, and whiskey.

283rd x-int. What amount?

A. I don't know just the amount.

284th x-int. Do you remember the amount of pork?

A. 100 barrels of pork and 50 barrels of whiskey.

285th x-int. What was the balance of the cargo?

A. Grain—corn and oats.

286th x-int. Where was it stowed?

A. Down in the barge.

287th x-int. Where were the barrels?

A. Upheaded on the deck of the barge.

288th x-int. Which side?

A. Both sides.

289th x-int. Did it fill the deck pretty well up—the barrels?

A. No, sir; gangway outside wide enough to carry sacks.

290th x-int. What was the width outside?

A. Two feet.

291st x-int. There was no guard on this barge?

A. No, sir.

292nd x-int. The barge was built clear out to the water?

A. Yes, sir.

293d x-int. Well, in coming down with that barge, did you have any trouble with her?

A. None.

294th x-int. What was her condition when you landed her and made her fast to the Julia and Pike?

A. Very good condition—very tight barge.

295th x-int. How near was the top of the barge to the water?

A. I don't know how high.

296th x-int. Six inches or a foot?

A. I should say it was about a foot above the water.

69 297th x-int. Did you notice whether the swell of the ferry-boat swept over her or not when you landed?

A. No, sir; I didn't see any come over.

298th x-int. Did you see a ferry-boat land while you were there before she sunk?

A. I don't remember whether or not; the ferry-boats landed there every little while.

299th x-int. Did you notice the effect of the waves on her?

A. No, sir.

300th x-int. Do you remember whether any landed there or not?

A. No, sir; I don't remember seeing any land there; I didn't notice them land. We were busy getting in, and I did not notice them.

301st x-int. Did you sign the protest that was made as mate of Pekin?

A. I don't know whether I did or not.

304th x-int. Do you write your name?

A. Yes, sir.

305th x-int. Don't you know whether you did or not?

A. No, sir; I don't know whether I did or not. I have signed so many protests that I don't know whether I signed that one or not.

30th x-int. Do you know where the protest was made, or by whom?

A. The protest was made by Wm. P. Hancock; he is the man that got it up.

307th x-int. What do mean by that?

A. By doing the writing of it; filling the protest.

308th x-int. Where was that?

A. In St. Louis.

309th x-int. What office?

A. He had an office at that time, I think, on Chestnut or Pine; I am not certain which. He told me where it was then.

310th x-int. How did he come to tell you that?

A. I asked him.

311th x-int. Then you probably signed it, didn't you?

A. I may have signed that and not remember it. If I saw
70 my signature I would know it.

312th x-int. If you did, you stated the cause of the sinking, didn't you?

A. Yes.

313th x-int. Did you state in it that the sinking was caused by the Fisher?

A. If I signed it I think I did.

314th x-int. Do you remember signing it?

A. I do not.

315th x-int. What is your best recollection now? Did you state in that protest, or any one you did sign, if any, that the sinking was caused by the Fisher?

A. I don't know that I did; I don't know that I signed any protest. If I remember aright I did not sign any protest.

316th x-int. Do you remember any cause why you did not?

A. No, sir; if I was called on to sign it, I signed it. I don't know as I was called on to sign that.

317th x-int. What was the man who made it?

A. Wm. P. Hancock, I think; I won't be positive; but I know he used to get up protests. I know he was a notary here some time; he told me he was.

318th x-int. Do you know Capt. Eaton, N., Jr., of the board of underwriters?

A. Yes, sir; I have seen him; not personally acquainted.

319th x-int. Did you sign a protest before him with reference to this barge?

A. I don't know whether I did or not. I have signed protests in

the port warden's office; but whether that one after the sinking of that barge or not I don't know.

320th x-int. What was it Hancock said to the captain of the Fisher? State his words as near as you can.

A. He told him not to land alongside that barge.

321st x-int. Those are the words?

A. As near as I remember.

71 322nd x-int. Did he repeat them?

A. Yes, sir; he put his hands up to his mouth and halloed.

323rd x-int. He was then about 200 feet off?

A. 200 or 300.

324th x-int. He was on the Pekin and you standing alongside?

A. I was on the forecastle not many feet from him; within 10 or 15 feet, or thereabouts; I remember seeing him putting his hands to his mouth and hallooing.

325th x-int. Were your boats escaping steam then?

A. Might have been.

326th x-int. Was it possible for the captain of the Fisher to have heard him?

A. Yes, sir.

327th x-int. Was it likely he did?

A. I thought at the time he heard him.

328th x-int. Was the indication such?

A. I did not notice the captain of the Fisher at the time.

329th x-int. You don't know what the indications were?

A. He halloed loud enough for the men on the Fisher to hear.

330th x-int. Was the Fisher running in when you last saw her?

A. No, sir; coming up past us towards the ferry-boat.

331st x-int. Was her position the same as the barge Anna, with reference to the channel?

A. About the same; it was further out than the Anna.

332nd x-int. But in about the same position with reference to the channel?

A. Yes, sir; about.

333rd x-int. Her head and stern in further from the shore or not; she was not coming square in?

A. No, sir; coming along up the river.

334th x-int. Do you know what she did when she went up?

A. She had a coal flat.

335th x-int. Where did she leave it?

A. I was told; I don't know; I can't say what she did.

2 There was a boat between me and her.

336th x-int. Now, when you landed the Anna, what length of line had she out between the Anna, and the stern or bow of the Anna, and the stern of the Julia?

A. They were both made fast, close together as they could be.

337th x-int. Touching?

A. Yes, sir; if not, she would have dropped alongside the Pike.

338th x-int. Which was further in the river, the stern of the Julia or bow of the Anna?

A. The bow of the Anna would be furthest out; if they touched the bow of the Anna would be furthest out; that is, if she laid lapping, what we call lapping, she would be further out.

340th x-int. Now, where was the stern of the Anna at the time you landed her? How far on the Pike?

A. That would be back in the region of her wheel-house.

341st x-int. Was not the stern of the Anna lying against the wheel of the Pike?

A. It might have been.

342nd x-int. Was not the Anna, when you landed her, against the wheel of the Belle of Pike?

A. I don't know whether she was; I don't know whether she went under the guard or not.

343rd x-int. Did you fasten the line from the Anna?

A. No. sir.

344th x-int. There was no line there? The current kept her in there?

A. Yes.

345th x-int. Now, did she go under the guard of the Pike, do you know?

A. I don't know whether she was low enough to go under the guard or not; whether she went under the guard, or got her nose on the outside of the guard?

346th x-int. How soon did the Pike go out after the barge sunk?

A. About 4 o'clock in the afternoon.

73 347th X-int. Where did Mr. Hancock go immediately after he hallooed to the captain of the Fisher?

A. He started, as I thought, over to the Fisher.

348th x-int. Did you see him?

A. I did not see him go to the Fisher; it was so far up I couldn't see; I saw him go that way.

349th x-int. He would have to go clear out of the bow of the Pekin off on the wharf-boat, and up?

A. Yes, sir; he could have got on the stern of the Pike, or got on the stemboat, and then went up.

350th x-int. Where did you next see him after he was hallooing to the captain of the Fisher on the Pekin?

A. I don't remember.

351st x-int. Did you go on this barge after you landed her at all?

A. No, sir.

352nd x-int. Did you see anybody else on her but this man you speak of, Conley, after the landing and before she sunk?

A. I don't know whether anybody else or not; I did not see anybody else. I did not go aboard the barge any more.

353rd x-int. Did you know or hear of hurried preparations for unloading that barge as soon as you landed her?

A. No, sir.

354th x-int. Heard no orders given to have her unloaded immediately?

A. I might have heard that order; I don't remember. That order is very often given to unload the barge as quick as possible.

355th x-int. There might have been such an order?

A. Yes.

356th x-int. Did you not give orders, or intimate to Mr. Hancock, or some other officers of the company, that they better unload that barge as soon as possible?

74 A. I don't think I did.

357th x-int. You don't think—is that your answer?

A. Yes, sir.

358th x-int. Have you not told parties, that when you came in you told them to unload that barge as soon as possible, or she would sink?

A. Never, that I know of.

350th q-int. That for the safety of the barge the cargo better be unloaded at once?

A. I don't know that I ever did tell anybody that.

360th x-int. Was it not your judgment that for the safety of the barge she ought to be unloaded?

A. I don't know; nothing was the matter with the barge.

361st x-int. What was your judgment at the time?

A. My judgment is, a barge better be unloaded as soon as possible at any time.

362nd x-int. Didn't you say, though, that they better unload the barge as soon as possible?

A. I think not; if I did I don't remember it.

363rd x-int. Have you talked to any one about it?

A. No, sir; I don't know that I ever did talk to anybody about it.

364th x-int. Do you know a boatman by the name of Spaulding?

A. Yes, sir.

365th x-int. Where is he now?

A. I don't know.

366th x-int. What is his business?

A. A deck-hand; I know a deck-hand by that name, two or three.

367th x-int. What is his Christian name?

A. There is two or three brothers.

368th x-int. Do you know J. C. Spaulding?

A. I know one called Jim Spaulding.

369th x-int. Did you talk to James Spaulding anything about this barge?

A. I think not.

75 370th x-int. Have you not in this city, on the wharf, talked with James Spaulding?

A. Never, to my recollection, sir.

371st x-int. You don't remember any conversation you had with him?

A. Not here.

272nd x-int. Didn't you tell Spaulding in this city, shortly after you got in there on the levee, either before or after the barge sunk, that they better unload the barge as soon as possible, or she would sink?

A. Never that I know of. I don't know that I ever spoke to Spaulding about the barge in my life.

373rd x-int. When did you see him last?

A. I don't know. I have not seen him for a long time; for some months, to my recollection. I might have seen him on the street; but I don't remember seeing him for several months.

374th x-int. You didn't go on the barge after you made her fast to the Julia—you are certain of that?

A. Well, I can't be so very positive. I am almost certain I did not. I might have went over, but I don't think I did; I don't think I went aboard of her after I landed.

375th x-int. And the first place you saw her, after you came back, was she was sunk?

A. Yes, sir. You may think I am trying to get round some of your questions; but I have so much of that business that I have to do, that I can't remember these things.

376th x-int. No; it is your honest recollection we want. After the barge was landed there, didn't you look down between the cargo, after the Fisher had gone up above her?

A. I don't remember that I did, sir.

377th x-int. In the dump holes?

76 A. No, sir; I don't remember that I did. I don't remember being aboard the barge after I landed her there. I went with the boat to get her, and I don't remember that I went back to the barge at all.

378th x-int. That is your best recollection?

A. Yes, sir.

379th x-int. That you did not go near her after you landed her?

A. That is my best recollection.

380th x-int. You did not then, nor at any time, see any breach or damage done to this barge?

A. No, sir.

381st x-int. Nowhere?

A. No, sir. You might call it damage when they bored a hole in her and put a line in.

382d x-int. You did not see them bore?

A. No, sir.

383rd x-int. Who bored it?

A. I don't know, because I did not see it bored there.

Direct examination resumed by libellant.

42nd int. You left the barge in an easy position when you tied her to the Julia?

A. Yes, sir; I thought so.

43rd int. The time you speak of seeing the barge, after she was sunk, in the morning or in the evening, was that the day on which she sank, or the day after?

A. It was the same day. I was not here the next day—went out.

44th int. Did you go on her that day after she sunk?

A. No, sir.

45th int. Did you make any particular examination of her?

A. No, sir.

46th int. Then the seams might have been open and you not see them?

A. Yes, sir; the seams might have been. I did not notice the seams particularly any more than any other.

77 47th x-int. You didn't stop to make any particular examination?

A. No, sir.

48th int. You had too much business to attend to?

A. Yes, sir; I have that.

49th int. Did you have to reload your boat that day?

A. Partly. I took in all the freight that was hauled there; took it aboard.

(Signed) JOHN WARREN.

John L. Leach.

The deposition of John L. Leach in behalf of libellant, taken before Lillie L. Walbridge, esq., a notary public of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the twenty-first day of November, A. D. 1866.

John L. Leach, 26 years of age, residence Peoria, occupation pilot, deposeth and saith, in answer to interrogatories and cross-interrogatories, as follows, viz:

1st int. What was your occupation last spring?

A. Pilot on the City of Pekin.

2nd int. Did the "City of Pekin" bring the barge "Annie" down the river last April?

A. Yes, sir.

3rd int. Where did you land the barge?

A. At the foot of Almond street.

4th int. How was she fastened?

A. Well, sir, I can't say positively; I do not remember. She was landed outside the Belle of Pike.

5th int. What did you do with the City of Pekin after you landed?

A. We dropped down to the stern of the "Belle of Pike," trying to get in under. The Maria Denning was lying there, and we
78 had to lay a line to get the "City of Pekin" straight enough to haul her in under the "Belle of Pike."

6th int. Did you see the Fisher about that time?

A. Yes, sir.

7th int. How did the "Francis Fisher" come in, in reference to the barge "Annie?"

A. She just come in as though there was nothing in the way to land; never stopped. Mr. Hancock was standing there warning them not to come alongside the barge. They never paid any attention. He warned them three or four times; but they came in, and struck her on a kind of a swing; struck her, I should judge, amidships in the middle of the barge; struck some whiskey barrels and pork barrels on the running boards of the barge, and knocked them in-board.

8th int. What was the position of the "City of Pekin" at the time that you say you saw the Fisher strike those barrels?

A. She was lying down broadside against the Maria Denning, below the barge.

9th int. Was she astern or abreast of the "Belle of Pike" at that time?

A. At her stern.

10th int. What was your position on the "City of Pekin" at that time?

A. I was in the pilot-house.

11th int. What view did you have of the Fisher and the barge from where you were standing in the pilot-house?

A. A very good view; nothing in the way; everything plain.

12th int. Did you see the Fisher when she run out?

A. Yes, sir; I saw her run out.

79 13th int. How close did the Fisher come to the barge "Annie," in rounding or backing out?

A. She struck her on the starboard quarter of the barge, near the stern.

14th int. Did you see the barge when she sunk?

A. No, sir; not when she sunk. I saw her after she was sunk.

15th int. When the Fisher rounded out into the river, where was the "City of Pekin?"

A. Laying down agin the Maria Denning, with her stern out in the river. The Maria Denning was laying in, her stern out in the river.

16th int. How was the barge "Annie" loaded?

A. She was loaded about as we usually load them—loaded very straight. I never saw a barge loaded straighter than she was. The mate, he remarked at the landing, "I don't know when I got a barge as straight as I got this one," says he.

17th int. Where had you brought her from?

A. Peoria.

Cross-examination by the respondents.

1st x-int. Where do you live?

A. Peoria.

2nd x-int. I think you stated you saw the Fisher come in?

A. Yes, sir.

3rd x-int. You say, in coming in, she struck the barge "Annie?"

A. Yes, sir.

4th x-int. Where were you at the time?

A. I was standing in the pilot house.

5th x-int. Where was the City of Pekin?

A. Lying at the stern of the Belle of Pike, alongside the Maria Denning.

6th x-int. That is below?

A. Below the stern of the barge.

80 7th x-int. Below where the Fisher was?

A. Yes, sir.

8th x-int. Where was the Maria Denning?

A. She was lying just below the City of Pekin; we was right alongside the Maria Denning; dropped alongside of her.

9th x-int. You had not yet gone up to the landing, to the wharf-boat?

A. No, sir.

10th x-int. What were you doing at that time?

A. We were laying. If I remember right, they were running a line from the City of Pekin to the wharf-boat.

11th x-int. For what purpose?

A. To hold her up from dropping back; to hold our boat up.

12th x-int. Were you trying to land there?

A. No, sir; we were trying to get in under the "Belle of Pike."

13th x-int. Did you subsequently land under the "Belle of Pike?"

Yes, sir; under the "Belle of Pike," at the stern of the wharf-boat, the lower gangway.

14th x-int. What time did you get landed after the Fisher had gone?

A. Perhaps ten minutes; 5 or 10 minutes; I can't say positively.

15th x-int. I think you also stated you saw the Fisher go out?

A. Yes, sir.

16th x-int. Did you see the Fisher strike the barge going out?

A. Yes, sir; she swung round, and struck her, with her larboard wheel, on the larboard side, and knocked some more whiskey and pork barrels in again, as she went out.

17th x-int. What did she knock the barrels with?

A. I think with the guards; I am sure it was.

18th x-int. Could you see from where you were whether it was the guard or not?

A. Yes, sir.

81 19th x-int. Could you tell from where you were whether anything but the guards struck?

The gvard struck till the wheel came in to strike.

20th x-int.

21st x-int. Could you see the wheel?

A. Yes, sir.

22nd x-int. From where you were?

A. Yes, sir; very plain.

23rd x-int. Could you see them strike the barge from where you were?

A. I saw the larboard wheel strike the barge.

24th x-int. What part of the barge?

A. Near the stern, when she went out.

25th x-int. Whereabouts did she strike coming in?

A. Near the middle of the barge, I judge.

26th x-int. Could you tell what part of the boat struck the barge at that time?

A. Near the bow; no, not the bow, but along the guard of the boat.

27th x-int. How far were you from the portion of the barge that was struck?

A. I don't know the exact distance; perhaps in the neighborhood of 75, 80, or 100 feet, right below the barge.

28th x-int. Whereabouts did the guards strike the barrels on the deck of the barge?

A. Well, I suppose about the middle of the barge.

29th x-int. What part of the barrel did the guards of the Fisher strike?

A. Near the top of the barrel, I judged; between that and the middle, somewhere.

30th x-int. How many barrels did it strike?

A. I can't say.

31st x-int. About how many?

A. I have no idea; I should judge, 5 or 6 barrels.

32nd x-int. How long after the Fisher went out before the
82 barge sank?

A. Well, sir, I don't think it was more than 20 or 25 minutes.

33rd x-int. Did you see her sink?

A. No, sir; I did not; I saw her after she was sunk.

34th x-int. How long was it after the Fisher went out before you saw her?

A. 20 or 25 minutes.

35th x-int. Where did you see the barge after she was sunk?

A. Lying outside the "Belle of Pike," or rather under the Belle of Pike; the stern of the barge was under the Belle of Pike, and the bow of the barge was out from under her.

36th x-int. Didn't you see her inside the Belle of Pike?

A. I did, after she sunk; she went under the Belle of Pike.

37th x-int. How was she when you saw her inside the "Belle of Pike?"

A. She came up, bottom-side up.

38th x-int. Did you see any other barge there beside the "Annie?"

A. Yes, sir; there was one but I don't know the name.

39th x-int. Whereabouts was she lying?

A. Right above; right at the bow of the "Annie."

40th x-int. Didn't the Fisher, when she landed, land against the other barge above that?

A. No, sir; she landed agin the Annie.

41st x-int. Did you see the Fisher leave a coal-flat there?

A. I believe she did; I don't remember whether she did or not; I think she did, but I am not positive.

42nd x-int. Did you see any coal-flat?

A. I saw her have some with her when she came in; one or two; two, I think.

83 43rd x-int. Now, didn't you see her land that coal-flat beside the barge above—the barge "Annie?"

A. No, sir; I did not; I did not see her land along that barge anywhere.

44th x-int. How was the Fisher coming, when she came in? was she coming up stream?

A. Yes, sir.

45th x-int. Did you see anybody on the barge "Annie?"

A. Nobody but Mr. Hancock.

46th x-int. How much of the barge Annie could you see from where you stood?

I could see the bow and the stern—all.

47th x-int. Did you see the middle of her?

A. Yes, sir; all of her.

48th x-int. Was any body else on the barge but Mr. Hancock?

No, sir; not that I saw; he was standing on the barge.

49th x-int. Did you see any man on the other barge above that?

A. No, sir.

50th x-int. Did you hear Mr. Hancock say anything?

Ans. I heard him tell the captain of the Fisher, or the pilot, not to come in by that barge—by no means not to land there. He paid no attention; he halloed three or four times; three, I know—perhaps four.

51st x-int. You could hear distinctly what Mr. Hancock said?

A. Yes, sir; the wind was blowing, what little there was, right down to me, and I heard him distinctly.

52nd x-int. How far from the wharf-boat out in the stream was this barge "Annie?"

84 A. She was out the width of the Belle of Pike.

53rd x-int. The length you mean?

A. The width.

54th x-int. Did the Belle of Pike lay straight up against the ———?

A. The wharf-boat; right straight up against the wharf-boat.

55th x-int. How many degrees to the current did she lay? or did she lay right parallel with the current?

A. She lay as near straight as you could get her?

56th x-int. Was there not another boat below her—the "Belle of Pike?"

A. No, sir; nothing nearer than the Maria Denning. There was plenty of room for the City of Pekin to come in under; there was nothing nearer above than the "Belle of Pike," except the wharf-boat.

57th x-int. How near was the stern of the Belle of Pike to the Maria Denning when you came up there?

A. I can't give the exact distance; there was room enough for us to come in under her; but the exact distance I can't say.

58th x-int. About how far?

A. I don't know.

59th x-int. Where was the Maria Denning made fast?

A. Out of shore, sir.

60th x-int. When you came in under the Belle of Pike did you throw the stern of [the stern of] the Belle of Pike out any into the stream?

A. Yes, sir; we throwed her out some.

61st x-int. About how many degrees?

A. Well, I don't know; I should judge, perhaps—I don't really know how many.

85 62nd x-int. 45 or 50?

A. About 30, I should judge, perhaps.

63rd x-int. How long from the time the "City of Pekin" came to the stern of the "Belle of Pike" before you had your boat landed to the wharf-boat?

A. I don't think not exceeding 10 minutes.

64th x-int. From the time you first came to the stern of the "Belle of Pike?"

A. That is from the time the line was thrown out up to the wharf-boat, till we came up and fastened to the wharf-boat.

65th x-int. How long after you got fastened to the wharf-boat before you saw the barge "Annie" turned upside down?

A. I don't think it was over—I know it was not over 15 minutes, if it was that; I just went down in the room to wash and comb my hair, and then went out. I can give the particulars if you want.

66th x-int. Did you examine the barge to see what was her condition?

A. No, sir; I was aboard of her up the river.

67th x-int. And down here?

A. No, sir; not here.

68th x-int. How many barges did you have in tow coming down that trip?

A. One.

69th x-int. This the only one?

A. Yes, sir.

70th x-int. Was any body on the barge coming down the trip?

A. Yes, sir; the watchman.

71st x-int. What is his name?

A. I can't think of his name; I heard it, but I don't remember it.

72nd x-int. Did he remain on her till she came to this port?

A. He was on her before she landed, I think, pumping her.

86 We have night watchmen; have two; have a night watchman, and the captain or mate always have a man appointed in the daylight to pump.

73rd x-int. Was not the watchman aboard of her when she came into this port?

A. Yes.

74th x-int. Where did he go after she landed?

A. I don't know whether he was on the steamboat, or where he was.

75th x-int. While you were coming down did this watchman have charge of the pumps on the barge?

A. He did in daylight.

76th x-int. Who had charge of the barge in the night?

A. The night watchman of the steamboat.

77th x-int. Did he remain on board the barge at night?

A. He kept a man there to pump the barge, and was around every half hour, no doubt.

78th x-int. What is your business now?

A. Pilot.

79th x-int. On what boat?

A. The Illinois.

80th x-int. You say she was landed by the capstan?

A. Yes; the City of Pekin was. She was hauled in slowly with the capstan; her head was.

81st x-int. How is that worked?

A. By steam.

82nd x-int. Of the steamboat?

A. Yes, sir.

83rd x-int. Did you see the barge "Annie" laying outside the "Belle of Pike" after she had sunk?

A. Yes, sir.

84th x-int. Where were you then?

A. I was standing on the other barge, above the barge "Annie." I ran over the "Belle of Pike," and they said she had sunk. I saw barrels going down the river. I ran around the wharf-boat, went aboard the "Belle of Pike," and stepped from there on the barge.

87 85th x-int. Where did that lay?

A. Above the Annie.

86th x-int. Fastened to the wharf-boat?

A. I cannot say, I don't know.

87th x-int. How was the river at that time, what stage of water?

A. I judge 12 feet.

88th x-int. Low or good stage?

A. Good stage; more than an ordinary stage.

89th x-int. How was the current in the river at that time, slow or rapid?

A. Rapid—rather rapid—stronger than usual.

90th x-int. How is the current at the Illinois packet landing?

A. I don't know. It is not any stronger; not as strong as at other places.

91st x-int. Is it not much slower than at other places?

A. It is not as strong as at other places; not as strong as above there, or as strong as below. I know it is not as strong as above—shot tower and along there it is stronger.

92nd x-int. You stated in reply to a question by Col. Broadhead that the shoving out of the stern of the "Belle of Pike" would not have any effect upon the barge, which was above the "Belle of Pike;" do I understand you to say that the throwing her out 30 degrees into the stream would have no effect?

A. No sir; it would not.

93rd x-int. It would not have any effect?

A. No, sir; I think not.

94th x-int. What effect would it have on a barge at right angles, laying across the current?

A. It would have a strong effect on straight across the
88 current. To lay her right straight across of course it would not be as safe as to have her straight up and down.

95th x-int. Did you ever know a barge being sunk by laying directly across the current?

A. No, sir.

96th x-int. Might not a barge laying across the current and laying against a large boat immediately below her be sunk by the operation of the current, provided the barge was heavily loaded?

A. I don't know whether it would or not.

(Signed.) JOHN L. LEECH.

Direct-examination resumed.

19th int. You say there was plenty of room for the Pekin to come in between the Belle of Pike and the "Maria Denning"?

A. Yes, sir.

20th int. How did you fasten the "City of Pekin"?

A. To the wharf-boat of the Illinois Packet Co.

21st int. How was she brought up to her position by the line, slowly or fast?

A. Slowly.

22nd int. Was she worked up by the wheels?

A. No, sir, by the capstans.

23rd int. When you say that the "Belle of Pike" was thrown about 30 degrees out, do you mean 30 degrees from her former position?

A. I mean her stern was put out as we came in under; we came in inside the "Pike," next to the wharf-boat; we did not come up to our regular landing.

24th int. Did you throw her out as far as right angles to the current?

A. No, sir; we throwed her out a little more than straight
89 up and down the river with the current, but not at right angles.

25th int. Can you state now, after the "City of Pekin" was landed, what position the "Belle of Pike" occupied in reference to the current? what angle she made with the current?

A. Her head was laying agin the wharf-boat, and her stern agin the "City of Pekin," and her stern was a little in the current.

26th int. Was there any danger to the barge from the stem of the "Belle of Pike" being thrown up stream?

A. No, sir; she was not thrown out enough to do that.

27th int. You understand what I mean. If the "Belle of Pike" was thrown out suddenly, rapidly, and at right angles with the current, it would have some tendency to put the barge in danger?

A. Yes, sir; it would lay the barge, of course, in an angle with the current, across the current.

28th int. I understand you that she was not thrown out so as to endanger the position of the barge?

A. No, sir.

29th int. When the barge sank and came up, did she come between the "Belle of Pike" and the "City of Pekin"?

A. Well her stern, the middle, perhaps, half-way or more was under the "Belle of Pike," but the bow of the barge was in sight—all there was in sight. I don't think there was 10 feet of the barge in sight; she was outside of the "Belle of Pike," at that time; when she turned over she rolled under the "Belle of Pike," and when she came up, she came up on the lower side or upper side of the "Belle of Pike," outside the "Belle of Pike."

30th int. What do you mean by outside, as away from shore?

90 A. The bow or half the barge or more that was under the "Belle of Pike" was turned over and sucked under.

Daniel J. Hancock.

The deposition of Daniel Hancock, in behalf of the libellant, taken before Lillie L. Walbridge. esq., a notary public of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the 22nd and 23rd days of November, A. D. 1866.

Daniel J. Hancock, age 48; residence St. Louis; deposeth and saith, as follows: I have been president of the Illinois River Packet Co. ever since its organization, I think, in 1858. I owned between a quarter and a third of the stock when this transaction occurred; since then I have purchased more. The other principal stockholders are Mr. Walker, the Naples Packet Co., and Mr. Mortimer; Mr. McCune was largely interested in the company until recently. We are about trading for the stock now, but the bargain is not consummated. He was largely interested at the time of this accident. The Packet Co. run a line of boats to Peoria and up the Illinois river, leaving generally daily, except Sunday's. On the 30th of April last the "City of Pekin" was due early in the morning, but did not arrive until 8 o'clock. I was on the wharf-boat looking for her—expecting her at the time she hove in sight, and I remained there til she come in; this was about 8 or 9 o'clock in the morning. She arrived, and having a barge in tow, I directed her where to land the barge, as our regular
91 landing for barges was crowded with other boats. Our landing is located near the foot of Almond st., or rather extending from about midway between Spruce st. and Almond to about midway between Almond and the street below.

The Naples Packet Co. and ourselves have about 300 feet of the levee set apart by the city for our special use. About 200 feet of that is occupied by our wharf-boat, which has three landings; the upper one used by the Naples Packet Co., and the two lower ones by the Illinois River Packet Co. Immediately below or wharf-boat is a space of about 100 feet, which we usually use for landing our barges at. That space was then occupied by the Maria Denning, loading for New Orleans, and this precluded us from our usual barge landing; and our landing being crowded at the time; that is, the levee room being scarce, I directed the barge to be fastened to one of the Naples Packet Company's, the Julia, and to be left there until

we could find a landing where she could be discharged. I fastened the barge "Annie" to the Naples Packet Company's "Julia," and then the Pekin dropped down alongside the Maria Denning, laying nearly under our wharf-boat, as shown in this diagram (marked Exhibit "B;") that shows the relative position, though it is not exact. While lying in this position, and the "City of Pekin" was about getting a line out to haul her up to the lower landing of the wharf-boat by the steam capstan, I saw the Fisher coming in with a coal flat in tow; and judging from her course that she was going to
92 land against the barge "Annie," I ran across the "Belle of Pike's" bow and on the barge "Julia," and thence on the "Annie," and when I got on the "Annie" the Fisher was in hailing distance, and I requested the captain not to land against the barge there, telling him there was no necessity for it, that he could not get his coal there at that time, and that there was danger of his hurting the barge by the way he was coming in. He paid no attention to my warning. I think I requested him three times to keep off. She came in with the coal-flat and struck the barge quartering, and went ahead till the coal-flat, which was on the bows of the Fisher, came up above the bow of the "Anbie" entirely and landed alongside the barge "Julia." She struck the "Annie" and run alongside of her till she got the coal-flat entirely above the "Annie," and landed the coal-flat alongside the barge "Julia." In coming in the guard of the Fisher entirely overrode the barge and misplaced a good deal of the cargo on the deck of the barge, which consisted of barrels of whiskey and pork, and sacks of grain. After getting the coal-flat landed, the Fisher floated along down the outer side of the barge Annie, her guard overriding it as she floated along down, till she got near the after-quarter or stern of the barge Annie, her wheel resting up against the side of the hull of the barge "Annie," and the guard overriding the entire starboard side of the barge. When she got in that position, her bow was swinging out a little; she pivoted around on the barge, pressing it up, the inner side of
93 the barge or the larboard side, against the wheel of the "Belle of Pike," and when the Fisher went ahead on her larboard engine, her larboard wheel struck the starboard side of the after-quarter of the Annie, and pressed her in heavily against the wheel of the "Belle of Pike." I, at that time, became alarmed for my own safety, and ran off the barge "Annie" and on to the "Belle of Pike." Immediately after the Fisher rounded out and left her, the barge "Annie" righted up and swung her stern clear, at that time, of the wheel of the "Belle of Pike," and I assisted the watchman of the barge "Annie" in placing a fender on the wheelhouse of the Belle of Pike, so as to keep her entirely free from going under the guard of the Belle of Pike. Then in company with the watchman, I went and looked into the pump holes, the places left for inserting the pumps, to see if there was any water coming in, and I saw the barge was not lying easy, and remarked to him to be very careful and attentive, to notice if he saw any indications whatever of damage, because I was fearful the barge was hurt. I then went from the

barge Annie to the barge Julia and requested the officers of the "Belle of Pike" to allow me to make an additional line fast to the Julia from their bits to the Julia, which they consented to, and the 2nd mate helped me to make the line fast. I then went down from there to the steamer City of Pekin, then just coming into the landing, as shown in this second diagram (marked Exhibit "C.")

94 That shows the relative position. They had just commenced discharging with a large crew, and not a great while after that—I cannot recollect how long—it may have been 5 or 10, or 15 minutes, I do not recollect the exact time, it was not very long—the alarm was given that the barge was sinking, and I called the crew of laborers that were discharging the "City of Pekin" to go with me over there and see what they could do to relieve her. They went with me across the "Belle of Pike" over the barge "Julia" till we got on her, and when we got there she was so far gone, sinking, that we did not attempt to remove the tarpaulin off her. When I first saw her in a sinking condition she was down nearly to her decks, sinking pretty nearly level, till she came down pretty near the decks, near the outer edge or sides of the barge, and the barge capsized over in less time apparently than I have been telling it; and as the barge was in the act of capsizing, I feared it would do damage to the Julia, and I caused her line to be unfastened—the line fastening the barge Annie to the barge Julia—and caused it to be cast off, and she turned over, capsizing outwards, and going about two-thirds of the distance of the hull of the barge Annie under the Belle of Pike, turning bottom side upwards; and in the act of going over, her deck load of barrels and whatever was on her was thrown into the river. We then attempted to fasten the barge where it was; not succeeding in that, the current took her under the "Belle of Pike" till she came up right between the Belle of Pike and our wharf-boat,

95 opposite our middle gangway, her bow resting opposite the middle gangway with the stern of the barge under the bow of the "City of Pekin." She lay right up and down in this position, as shown in this diagram, No. 2, (marked Exhibit "C,") extending from onr middle gangway down to the hull of the Maria Denning. She lay in that position till after the "Belle of Pike" and "City of Pekin" went out in the evening; and I got the "Fisher" then to take hold of her and try to remove her. But we did not succeed; could not do anything with her, and the next day, or day after, I employed the bell boat to remove her. She did not do anything with her, and finally, after working at her half a day, she swung round and went entirely under our wharf-boat and lodged on the levee, bottom side upwards, where she remained for near two months, the water filling her. The harbor master made frequent efforts to remove her, without tearing her to pieces; but not succeeding in that, I finally got impatient about her being in the way and told him if he was not going to remove her I would. He said I might do what I pleased. I then got a parcel of men to work tearing her up. They tore her up; and as the water has fallen away, we have continued to let the men remove her timbers, until now she is almost entirely re-

moved. When they broke the hull open we found it filled with the sacks of grain that had swollen in there. But little of the cargo inside the barge had been lost. It remained in the barge after it capsized. The entire deck load, I suppose, was swept off in the
96 river. There was 50 barrels of whiskey on board; we saved 25 barrels; that is all we did save of the cargo entire. The rest of the cargo was entirely lost. This cargo was in charge of the Illinois River Packet Co.

1st. int. While you are on that subject of the cargo, state the value of it.

A. I will state that I am engaged in the grain and produce business, and almost daily in the market selling produce, and at that time corn was worth from 65 to 70 cents, oats 45. Pork was worth, according to the quotations, $28½ per barrel. I was not personally conversant with that market, but grain I was, at the time. I have made out an invoice here of the entire cargo, predicated on the prices current at that date. I offer this as an exhibit (marked Exhibit "D.") I put the value of the barge at $5,000; that is what I suppose was an honest valuation of the barge at the time. The weights are here all averaged. There is but little difference in the general run of shipments of grain, and these averages are made up from other shipments from the same parties.

2nd int. Who was the owner of the barge at that time?

A. The Illinois River Packet Co.

3rd int. When you examined the hull of the barge after the accident, was there anything the matter with her?

A. I noticed that her starboard quarter and her side was smashed in. I cannot tell how much, but I saw it was broken loose from its fastenings. I presume about two or three inches.

4th int. Enough to let in the water?

A. Oh, yes, sir.

97 5th int. After the Fisher struck the barge the second time in rounding out, and you left her, what was her position in reference to the Belle of Pike. I mean was she touching her or swinging off?

(To this interrogatory, counsel for respondent objects.)

A. She was resting against her—swinging against her—and as I remarked, I put a fender down between the "Belle of Pike" and the barge. She was resting easy; I could shove her out with my hand pressing against her. I directed the barge to be landed there, because I thought it was an easy and safe position for her, till we could get to a landing where we could discharge her.

6th int. I don't understand you, that when the alarm was given that she was sinking and you came back across the "Belle of Pike," whether any of her guards were under water or not, at the time you saw her?

A. I stated that just as I came on the barge Julia, and got a view of the Annie, she was just settling down near the surface of the water. She settled pretty nearly straight, till she got pretty near her decks, when she suddenly careened outward, and the current catching her, threw her over very quickly.

7th int. Was the water running over her sides at the time?

A. Not when I first saw her; but before she capsized it was running over her outer side.

8th int. When you left the barge, and the Fisher backed out or rounded out, to go across to the City of Pekin, did you leave anybody aboard the barge?

98 A. Yes, sir; the watchman was there when the barge landed there. I directed the mate of the Pekin to put a special watchman in charge of her, and he was there when I came back. I left him there when I went away, and found him there when I came back.

9th int. At the time the Fisher came in, was there any boat between the barge Annie and the ferry landing above?

A. No, sir; except the Julia, as shown in the diagram, (No. 1 & 2) and the Annie was tied to the stern of the Julia.

10th int. How far above the Naples Packet Co.'s landing was the ferry landing or ferry dock?

A. It is about 50 feet; sometimes more and sometimes less. We do not keep any settled position, but fifty feet is about the average distance between the two.

The taking of the deposition not having been concluded, an adjournment was had by consent of parties until two o'clock, p. m., November twenty-third, when the examination was resumed, as follows:

11th int. I think that you stated that yourself and the watchman, after the Fisher left, put the pumps to work to see whether there was any water?

A. No, sir; I did not say that. I said we looked into the pump-holes to see whether there was any water in them.

12th int. You did not discover any water?

A. Immediately after the Fisher left, and after being occupied about there a few minutes, I noticed a little muddy water at one of them, and charged the watchman specially to look sharply after it, and let us know if he saw any signs. It was immediately after we

99 placed a fender down between the wheelhouse of the "Belle of Pike" and the deck of the barge; the watchman and I moved her by pushing our hands against the bulkhead and shoving her out.

13th int. Suppose the effect of the blow from the Fisher had sprung the knuckles of the boat, or made a fracture in one of the planks in the hull, would the water have come in immediately, or how long would it have taken?

A. Well it is just owing to the nature of the accident. The pressure on the side of the barge might have been such as to have opened the knuckle-seams enough in a little while to let the oakum out, which might have been held there by the currect a few minutes, and then taken away; and as it gradually wore away, then she would commence leaking, and it would take the water some time to find the way to where it would be discovered. The barge being all stored closely below with freight, it necessarily has to find its level through

the apertures of the freight, and under what is called the dunnage, or the floors of the barge, so that the spaces between the timbers would have to fill up before it would run over much into the other space. It would only come through what is called the "limbers," which are small spaces.

14th int. I think you stated that when you returned from the City of Pekin across the "Belle of Pike," and the alarm was given, that the water was not running over the sides of the barge?

A. No, sir; it was not. As I said before, the barge appeared to be in the act of settling down at the stern, in that position careen-
100 ing over a little out-board to the river, and just as soon as the water came on that side of her in this position here, she turned right over—quartered and turned right over. It was very suddenly done, and we had not time to get the tarpaulins off after we got there.

Cross-examination by the respondent.

1st x-int. I think you said in your examination-in-chief, that you directed the captain of the "City of Pekin" where to land this barge?

A. Yes, sir; I did.

2nd x-int. You further stated that the usual place that you had for landing your barges was occupied?

A. Yes, sir; occupid by the Maria Denning and other boats.

3rd x-int. What other boats or barges were there at the place you usually landed your barges?

A. I don't now recollect what other boats were there.

4th x-int. How many?

A. The landing below, for some distance, was well filled with boats and barges.

5th x-int. Did you see any boat or barge above the Maria Denning?

A. I think not; such is my recollection, but I cannot be certain about it. My recollection now is that the Maria Denning lay immediately below our wharf-boat.

6th x-int. Was there not a transportation barge above the Maria Denning and between the Maria Denning and the Belle of Pike?

A. I think not; I have no recollection, but I cannot be certain as to that. I recollect well about the Maria Denning being there, for she was very much in our way and a great annoyance; she laid there a week.

7th x-int. You say you directed the barge Julia to be fastened to the Naples Packet Company's boat.

A. Yes, sir.

101 8th x-int. Was the any other boats or barges lying above the barge Julia, between the Julia and the ferry-packet landing?

A. No, sir; it was clear.

9th x-int. Was not this place between the Illinois River Packet landing and the ferry landing, a safer place to land the barge

"Annie" than where she was landed and fastened to the barge Julia out in the stream?

A. No, sir, I think not; because she would have had to lay across the current so much; besides there was not sufficient room in the landing there to discharge her, and as I stated in my examination before, the principal object in landing her there was, that she might remain till we could find a landing where we could discharge her. We had a great deal of produce on the landing at that time, and it was much crowded.

10th x-int. As I understand you, she was only fastened to the barge Julia temporarily?

A. She was fastened to remain, as I stated, till we could get her in the landing, to a place to discharge.

11th x-int. Could she not be temporarily landed at the space between the Packet Company's docks and the ferry-boat landing?

A. Not as they were situated at that time, because there was not room for the ferry-boats to get in and out well from their landing, if there had been an additional barge in there, to the barge Julia.

12th x-int. Do you say it would be impossible to land the barge "Annie" in that space between the Packet Company's landing and the ferry-boat landing?

102 A. No; I did not mean to say impossible, for it could have been done.

13th x-int. Would it not have been a safe place?

A. I thought not at the time; nor did the captain of the Pekin think it, on consultation with him.

14th x-int. Was there no other place where the barge might have been temporarily landed till the company's docks were cleared, so she could be unloaded?

A. There may have been other places, but our boat was late—the Pekin—was behind time, and she had to go out that day, and we had not much time to hunt for a landing, and I thought it was better to land the barge there and let her remain till we could find a place, and have one of the tow-boats in the harbor take her off, which we often do.

15th x-int. Well, then, was it not a matter of economy and not of of security that you selected the place you did for fastening her.

A. No, sir; it was not a matter of economy any more than a matter of security. I thought it a very safe place for the barge to lay till we could get her into a good landing.

16th x-int. Was she not in this current?

A. She was laying in the current, but nearly straight up and down with the current, as represented in this exhibit.

17th x-int. If there was no other boat at the wharf-boat but the Belle of Pike, was there not room enough to land the City of Pekin and the barge Annie at the wharf-boat?

103 A. There was room enough, but the barge would not have laid so easy there as in the position in which she was left, from the fact that she would have been quartering across the current.

18th x-int. Would she not have been safer in that place than where she was?

A. I thought not at the time, and still think the place we selected was the safer place.

19th x-int. Would not the barge Annie have been safer in that place from danger of collision with other boats than she was where you fastened her?

A. She might have been in that respect, but there was no need of any boats colliding with her where she was left.

20th x-int. Was there no other place along the landing or levee where she could have been temporarily landed?

A. Yes, sir.

21st x-int. More safely?

A. Yes, sir; there were other places where she could have been landed; but as to the question of being more safe than there, that is a question which depends altogether on circumstances. I supposed it a very safe place where she was.

22d x-int. Was she not where the billows of the ferry boats struck her?

A. Well the waves of the ferry boat would strike her where she was.

23d x-int. And would not in any other place, would they?

A. Not if far enough off, but she was well and straight loaded, and not loaded deep enough to be affected by any waves.

104 24th x-int. Was not the current of the river very strong at that place?

A. It is about the same there as along the most of the harbor; when the water is high there is a pretty sharp current all along the harbor.

25th x-int. Was not the water very high at that time?

A. No; it was not very high, but in a very good stage.

26th x-int. Well, you say the current was not very rapied there?

A. Well, when we speak of rapid currents, we speak———

27th x-int. Well, you say the current was not very rapid where the "Annie" lay?

A. The current along the entire portion of the harbor there, when the water is in a good stage, is swift and rapid.

28th x-int. Comparatively, what stage of water was it at that time?

A. Well, I don't recollect exactly as to the number of feet but I think there must have been about 12 to 15 feet in the channel.

29th x-int. Was it not the highest stage of water that occurred last spring?

A. I think not; I think it had been higher, but I am not certain as to that; I know the water was pretty well up from the fact that where the barge was when the water fell.

30th x-int. Did you then, and do you now, think that that was the safest place you could have got to temporarily land the boat till the wharf-boat of the company was clear?

A. Well, I thought it a very safe place or I should not———

31st x-int. Was it the safest place?

A. I did not take the matter into consideration whether there
105 was any other safe place or not, because I thought it was a very safe place where I left her.

32d x-int. You didn't consider about it?

A. I did not think it necessary.

33d x-int. What do you think now? Do you think it was the safest place?

A. Well, I think that was a very safe place, and that the barge would have been all safe if other boats had been kept away.

34th x-int. That is not the question. Do you think it the safest place that could have been selected?

A. Of course, with my experience now, with the result of that, if I had known that beforehand, I should have taken her out of the way of the Fisher and every other boat that came along up there.

35th x-int. I think you stated in your examination-in-chief that you saw the steamer Fisher coming in with a coal flat?

A. Yes, sir; I said I saw her making, as it were, with the intention of landing the coal-flat alongside there. The Fisher at that time was supplying us with coal. It was her custom always to come alongside with a coal-flat sometime during the day for the purpose of supplying the Naples Packet Co. and ourselves, and seeing her coming in in that direction I supposed she was coming in to make her ordinary landing.

36th x-int. Did you see the coal-flat?

A. Yes, sir.

37th x-int. What part of the Fisher was the coal-flat attached to?

A. I am not certain now, but I think on her larboard forequarter, kind of across her bow; that is the way they frequently tow them to more equally balance.

106 38th x-int. As the Fisher came in the coal-flat would be on the side of the "Fisher" next to where the barge Annie lay, would it not?

A. If it was on her larboard bow, which I think was the case.

39th x-int. What is (about) the width of that coal-flat attached to the "Fisher?"

A. I can't state its dimensions exactly; I think they are about 60 to 80 feet long, and about 20 to 25 wide.

40th x-int. I think you say when she came in she landed this flat-boat above the bow of the "Annie," alongside the barge "Julia?"

A. That is my recollection.

41st x-int. Did the coal-flat, in coming in, touch the barge "Annie?"

A. I think she did, but I am not certain as to that matter, my impression is she did; and that the stern of the Fisher or guard———

42d x-int. I am not talking of that, I am talking of the coal flat.

A. I cannot say certainly as to the coal-flat, but I know the guard of the Fisher overrode the barge.

43d x-int. You may state, if you wish, how the guards of the Fisher touched the barge Annie?

A. If my recollection about the position of the flat is correct, she

was kind of across the bows, and pretty well forward, but I am not certain as to the position of the flat; but I recollect pretty well the Fisher struck the barge quite heavily when she came in, either with the flat or herself; and the guard of the Fisher, overriding the barge, misplaced the freight and knocked it in-board.

107 44th x-int. I ask which struck the barge "Annie" first, the coal-flat or the guard of the Fisher?

A. My recollection is it was the flat, but I cannot be certain as to that.

45th x-int. Whereabouts on the barge did this first strike occur?

A. I think about midships of the barge, but I am not certain. It was all done very quickly and hurridly, and what I looked out for was the freight, fearing the Fisher would knock the freight overboard.

46th x-int. How could the guards of the Fisher entirely override the barge and displace the cargo while the flat-boat was between the Fisher and barge "Annie?"

A. Why it could do it very easily by the stern of the Fisher flanking in on the barge as she was passing on up.

47th x-int. How wide do you say the flat was?

A. I don't recollect; I thought about 20 to 25 feet; I never measured and cannot say.

48th x-int. What is the width of the guards from the main body of the boat?

A. I suppose about 12 to 15 feet.

49th x-int. Then, is this your idea, that the guards of the Fisher, in passing up, struck the barge "Annie?"

A. No; I don't say that the guards of the Fisher struck the barge Annie. I said the guards overrode the barge and misplaced some of the freight, knocking it in-board. The freight was placed about 2 feet from the sides of the barge.

50th x-int. Do I understand you that it was possible for the guards of the Fisher to extend over the coal-flat so as to override the

108 barge Annie.

A. Oh, no; I did not state that. I said it was possible for the aft guard—the after part of the guard—to strike the barge "Annie," even although the flat was on that side, as she was flanking in and landing. You will see by reference to that Exhibit, No. , if you will allow me to show with that how it occurred.

51st x-int. For how long a distance did the guard rake the freight on the barge?

A. I don't recollect how long, but I think it was mostly on the after part of the barge.

52d x-int. What part of the guard was it that struck the after part of the barge?

A. I cannot recollect now.

53d x-int. Was it aft or in front of the wheel?

A. I cannot recollect now what position. I recollect well the fact of the guards displacing the freight.

54th x-int. You don't know whether before or behind the wheel?

A. No; I don't recollect what portion of the guard struck it.

55th x-int. Where did you say this flat-boat was ultimately landed?

A. Alongside the barge "Julia."

56th x-int. On what part of the barge Julia? How high upon her?

A. I think it was about aft midships of the barge; that is my recollection, but I am not certain.

57th x-int. On which side the barge Julia was the coal-flat landed?

A. The upper side.

58th x-int. Do you mean the starboard side?

A. Yes, sir.

58th x int. Looking at diagram No. 1, how was it possible for the Fisher, as you say, coming alongside the barge Annie, to land
109 the coal-flat on the starboard side of the barge "Julia?"

A. Well it is very easily done. The guards of the Fisher, in landing against the barge came in quartering to the barge Annie. and on striking the barge Annie it would naturally rebound a little, which, in going ahead in that course, would bring her in a parallel line, running parallel with the starboard side of the barge Annie, would bring her above the starboard quarter of the barge Julia, and enable her to shove her flat right alongside the starboard quarter of the Julia.

60th x-int. Now, you say she came in quartering—the Fisher came in quartering on the Annie; if so, as you describe. would not the coal-flat necessarily have touched the barge Annie before the guards of the Fisher?

A. She would at first, but in swinging, the stern of the Fisher swinging in, they would both strike her, first, the flat in landing, and then the after part of the guard of the Fisher in rebounding and straightening up alongside of the Annie.

61st x-int. Did you state a few minutes ago that you did not know which struck the barge first, the coal-flat or the guard of the boat.

I stated that my recollection was not distinct about that, which struck her first, nor neither is it.

62nd x-int. In coming up the way you describe which stroke would be the heaviest against the barge, the first stroke or the subsequent swinging round stroke that you describe?

A. Well it is just owing to the force of either.

63rd x-int. You can't tell, then, which would be hardest.
110 How then, if the Fisher came up quartering, as you say, how could the guards of the Fisher strike the after part of the Annie inside of the forward part, if she put the coal-flat so far up on the Julia as you say?

A. It would be a very easy matter to do that, for in coming in quartering, when she struck the barge Annie, she would not really flank down her stern on a line parallel with the line of the barge Annie; that would be her natural position when she stopped, to straighten up a longside of the barge.

64th x-int. Now, couldn't you have told if the blow was a heavy one, and looking right at the Fisher and coal-flat coming in, which part, the coal-flat or the guard of the Fisher, first struck your barge Annie?

A. Well, as I stated before, my recollection is not distinct as to which struck first, but my impression is the flat struck her first.

65th x-int. You say, in your examination-in-chief that "when the Fisher went ahead on her larboard engine, her larboard wheel struck the starboard side of the after quarter of the Annie, and pressed her heavily." Do you mean by that that was the principal stroke that was given to the Annie?

A. After landing the flat alongside the Julia, the Fisher then allowed herself to be carried alongside of the starboard or outer part of the barge Annie, till she came near the after quarter, working her outside wheel, as it were, pivoting around on the barge and going ahead when she got sufficiently pointed out; they went ahead
111 on the larboard engine, the wheel at the time was resting against the barge, and, of course, must strike her, which it did, and pressed her in against the wheel of the "Belle of Pike." I thought the barge then in great danger, and ran entirely off the barge till I could see the effect the blow had on her.

66th x-int. Was that the principal blow that you noticed?

A. I think that was probably the one that done the most damage, but cannot be certain.

67th x-int. The first stroke in coming in quartering, whether it was by the coal flat or the steamer Fisher, was not perceptibly felt by you?

A. Yes, sir; it was felt by me.

68th x-int. Was it a heavy blow?

A. Not so heavy as the latter one.

69th x-int. This latter blow you speak of occurred when the Fisher was going ahead on her larboard wheel to land the flat?

A. No, sir; after she landed the flat was going away.

70th x-int. Were you the only person on the barge at that time?

A. The watchman of the barge was there, and during the time the Fisher was lying there this man, Lockhead, came to see me.

71st x-int. Was he on at this time?

A. He was on during the time the Fisher was against the barge, but just what time I can't say.

72nd x-int. Who was the watchman on the barge?

A. Collins; Stephen Collins.

73rd x-int. Was he regularly employed as a watchman for that barge?

A. Well, I don't know as to that, whether he was or not.
112 I requested the mate to put a special watchman on her, and he is the one the mate sent for that purpose.

74th x-int. Did you not state, in your examination-in-chief, that you directed the mate of the Pekin to be special watchman in charge?

A. No, sir; I directed him to put a special watchman in charge.

75th x-int. You did not direct him to be the watchman?

A. Oh, no; that was not his place.

76th x-int. Where is that watchman now?

A. I understand he is on the steamer Olive Branch for the last week or two, but I have not been able to find him. He is a river-man, and not here much of the time.

77th x-int. You stated in your examination-in-chief that immediately after the Fisher left, had rounded out and left, that you and the watchman, or you assisted the watchman in placing a fender on the Belle of Pike, so as to keep her entirely off the barge; the barge entirely free from the "Belle of Pike."

A. From the wheel of the Belle of Pike.

78th x-int. Was that before or after the Fisher had left?

A. That was after the Fisher had left.

79th x-int. Did you not also state that when the Fisher first came there, that you placed a fender between the Belle of Pike and the barge?

A. No, sir; I have no recollection of making any such statement.

80th x-int. Looking at number two diagram, does it appear by that exhibit that the barge Annie, after the "Fisher" had left, was lying against the wheel of the Belle of Pike?

A. Well, this is intended so to be represented.

113 81st x-int. Does it so represent it?

A. The lines don't come together. This is only a rough sketch.

82nd x-int. I want to know whether that is correct in that respect?

A. The diagram is not literally correct, and is not intended to be, but to show the relative positions.

83rd x-int. If the relative position of the Annie is correct, would there be any use of a fender between the "Belle of Pike" and the barge Annie?

A. The Belle of Pike is a side-wheel boat, and has wide guards.

84th x-int. Answer my question. Would there be any use of a fender between the Belle of Pike and the barge Annie is represented on that plat?

A. There would not be, if the barge Annie kept entirely free from the Belle of Pike, but she did not, because the current pressed her against it.

85th x-int. Then you say that there was a necessity for a fender between the barge Annie and the Belle of Pike, as represented on that plat?

A. No, sir; I do not say so. I say that the stern of the barge Annie rested against the stern and wheelhouse of the Belle of Pike all the time, before and after the Fisher was there, and during the time the Fisher was there, she crowded her in under the guard.

86th x-int. Does that exhibit represent the proper position of the boat and barge?

A. It represents relatively the true position.

87th x-int. I mean of the barge Annie and the Belle of Pike.

A. That is not an accurate representation. It is not shown

114 with regular lines on a regular scale; it is simply a sketch.

88th x-int. How long after the Fisher had gone did you and the watchman go and look at the pump holes?

A. I cannot recollect how long, but it was not many minutes.

89th x-int. Did you make a thorough examination?

A. We made a hasty examination; looked down.

90th x-int. Did you see any water there?

A. Not immediately.

91st x-int. Did you at any time?

A. Yes.

92nd x-int. When?

A. A short time after I got things fixed there, as I supposed properly, I went forward to make an additional line fast to the barge Julia, fearing that her lines were not fast enough; and after doing that, I again took another survey of the barge. and in that survey I recollect seeing angry water—muddy water of the Mississippi—at one of the pump holes, and charged the watchman specially in regard to it to keep a close watch.

93rd x-int. How long after you first examined the pump holes was that?

A. I can't say as to time; it might have been five or ten minutes; it might have been 15 minutes; I cannot recollect as to the time.

94th x-int. Did you order the pumps to be worked?

A. I did not; for a that time there was not much water in the barge.

95th x-int. How was she then lying upon the water?

A. She was laying easy.

96th x-int. She was level with the water; straight at that time?

A. She was laying pretty near straight with the current.

115 97th x-int. I mean level as being depressed one side or the other; was she careened or not?

A. No; her natural position; not careened at that time.

98th x-int. But she was taking in muddy water?

A. I stated just before I last left the barge, I saw a little muddy water coming in at one of the pump holes.

99th x-int. How long after you saw this water was it that you heard the cry of "barge sinking?"

A. I don't recollect now as to the time; I suppose 5 or 10 minutes. I had gone to the Pekin where they were discharging. She had landed and they had commenced discharging. It was just after the Pekin got landed and the hands were at work taking the sacks off, when some one came. I was talking with some one about the business; I don't recollect what I was doing.

100th x-int. Now was there anything done by you or the watchman from the time you first discovered the water there, to use the pumps and free the barge from the water, till you heard the cry of "barge sinking?"

There was not, because there was no necessity of using the pumps.

101st x-int. How long did you say you were gone from the barge from the time you left until you returned; from the time you left after examining the pump holes until you returned?

A. Well, I can't say how long, but I did not return till the alarm was given that the barge was sinking.

116 102nd x-int. How long was that from the time you left, after examining the pump holes, until the time you went back to examine her and found her sinking?

A. Well, I do not recollect; as I stated before, it was some 5 or 10 minutes. I went away up the levee to do an errand, and was not gone very long.

103rd x-int. Now, I wan't to know how long after you got ashore before the city of Pekin had landed and got fastened to the wharf-boat?

A. Well, I don't recollect as to that, because I was not paying particular attention.

104th x-int. Was she fastened to the wharf-boat before you heard the alarm of the sinking barge?

A. Yes, sir; they were discharging freight when the alarm was given that the barge was sinking.

105th x-int. Did you not state in your examination-in-chief that it was from 5 to 15 minutes after you examined the holes that the alarm was given that the barge was sinking?

A. It was somewhere in the neighborhood of that time. I don't recollect just what I stated. It must have been somewhere in that neighborhood.

106th x-int. When you first went back after the cry of barge sinking, you saw the barge lying pretty near level and no water on her decks?

A. She was pretty near level; a little lower on the outside.

107th x-int. How long was it from the time you went back and saw her in that condition before she careened over?

A. Well, I don't think it was over two minutes.

117 108th x-int. Who was there besides yourself after the alarm of "barge sinking" was given, and the barge began to sink and careen over?

A. There was quite a large number; a large crowd. We had some 40 or 50 laborers discharging the Pekin, and I directed them all to go immediately over and render all the assistance they could, and they all started over the Belle of Pike to render what assistance was necessary. There were, I suppose, 50 persons looking at it.

109th x-int. What was the condition of the barge immediately after she was capsized and sunk? Did you examine her as to her condition?

A. I could only see the forward part of her bottom; that was all I could see.

110th x-int. How much of her could you see after she capsized?

A. I suppose we could see about ½ of her bottom.

111th x-int. Did you see Capt. DeWitt at that time there?

A. Yes, sir.

112th x-int. Did he examine the barge?

He was there and helping what he could, rendering what assistance he could.

112th x-int. After she sunk, on the same day that she sunk, you said in your examination-in-chief that you got the steamer Fisher to take hold of the barge and try to remove her, but did not succeed.

A. Yes; we did not succeed; we moved her in part, but did not succeed in getting her away from the wharf-boat, and had to leave her.

118 113th x-int. Was that before or after the City of Pekin left the wharf-boat?

A. After she had left the wharf-boat.

114th x-int. Was the Maria Denning there?

A. The Maria Denning was there.

115th x-int. Did you say anything at that time to the captain of the Fisher, or have any conversation with him about the landing of the barge?

A. Yes, sir.

116th x-int. Did you say anything about the "Fisher" having injured the barge?

A. I don't recollect now that I did, and I did not think it necessary. The captain acted as though he had been instrumental in doing the injury, and told me to take the Fisher and go and do just what I wanted, to try and save the barge.

117th x-int. How did he act so as to manifest such a feeling?

He acted as though he had quite an interest in trying to save the barge and secure it.

118th x-int. Would not that be the case in any instance, if the barge was in distress, as capt. of a towboat, to render assistance?

A. Well, he might; it would be his duty to do it provided he had time.

119th x-int. When you first called on the captain to pull off the barge, what did he say to you?

A. I don't now recollect what he said.

120th x-int. Didn't he tell you it would be impossible to pull her off?

A. He said that he could not do it; but we went to work and moved her out of her first position, and if he had remained with us, we would have got her in position where the barge could have
119 been saved, but he said he had no time to do more, and went off and left her.

122nd x-int. Did you express the opinion at that time that you could pull her off?

A. Certainly; I expressed it in my acts in going to work and trying to get her off.

123rd x-int. Did not Capt. Irons offer you the command of the boat, if you could take her off?

A. He did; and for this very reason. says he, "I know nothing about this kind of business," and I told him I didn't know much either.

124th x-int. So you both knew nothing about the matter, and continued towing off the sunken barge in that position?

A. We were trying to underrun her with a line to get what we call a rolling hitch on her, and roll her over.

125th x-int. Did you say to the captain of the Fisher or any other member of the officers or crew on that day that you thought the Fisher had damaged your barge?

A. I don't recollect what my words were about it; but I never had any other thought than that the Fisher, coming in or going out, overrode the barge, and was the cause of her sinking.

126th x-int. How long after the accident did you notify any of the officers or owners of that boat that you claimed any damages?

A. I do not recollect as to the exact number of days, but I do not think it was more than three or four days until we quit having the Fisher coal us.

127th x-int. How many days?

A. Not many; I think 2, 3 or 4 days.

120 128th x-int. During those days did you say anything to the officers or owners about the damage?

A. Yes, sir; my principal conversation was with the collector.

129th x-int. Who was that?

A. Mr. Scudder.

130th x-int. How long, after the accident, did you have a conversation with him?

A. I don't recollect the number of days; I think about 2 or three days.

131st x-int. Did the collector come down to the wharf-boat nearly every day during that time?

A. I think he was about the wharf-boat, but I am not at the wharf-boat a great deal of the time, except when the boats are coming in or going out.

132nd x-int. Did you meet Mr. Scudder often?

A. Nearly every day on the street, in the office, and on change.

133rd x-int. When you first spoke to Mr. Scudder about this loss, about what language did you use?

A. I don't recollect as to the language, but I think I told him we should have to make him pay for the barge; we were indebted to the coal company some, I think one or two thousand dollars, for the boats that had been coaling a week or two, and for some time I refused to pay him until this matter was settled; finally they threatened to tie each one of the boats up, and I told Mr. Scudder, in order to save a multiplicity of suits, that I would pay the bills, and then libel the Fisher for the entire barge and cargo.

134th x-int. Didn't you pay him the money after the accident?

A. Yes, sir.

121 135th x-int. For several days before you spoke to him about this?

A. I think not; the clerk is here, and he can tell you all these particulars.

136th x-int. Did you speak to Mr. Scudder of this loss the first time you saw him after the accident?

A. I don't recollect whether I did or not. We had frequent conversations about it, I know, but I cannot recollect as to the time.

137th x-int. Did you express a doubt to Mr. Scudder in the first conversation with him, whether the accident was caused by the Fisher or by some other means?

A. I may have expressed a doubt as to being satisfied as to what was the true cause of the sinking of the barge, but these doubts were entirely removed, after the exposure of the barge, after she was on the landing.

138th x-int. Well, how did you arrive at the conclusion that the Fisher was the cause of the accident?

A. I could see no other reason for it.

139th x-int. Then it was not from the violence of the stroke that the Fisher gave the barge that you came to the conclusion?

A. Yes, sir; the barge was in imminent peril at the time.

140th x-int. Didn't you say just now, because you had no other reason to account for it by?

A. I said because I could find no other satisfactory reason for the sinking of the barge, that the Fisher must have done it.

141st x-int. Could not the barge have been sunk by any other cause?

A. It could have been by other causes.

122 142nd x-int. Might it not have been sunk by its own weight and springing a leak?

A. I think not; unless that leak was occasioned by the force of the blows, which she received from the Fisher either coming in or going out. The injuiries to boats and vessels do not always manifest themselves immediately; it is sometimes half an hour or an hour after they receive the blow before it is evident.

143rd x-int. Might it not have been caused by the boat springing a leak, and the violence of the current, and the forcing of the stern of the Belle of Pike up against the barge, thereby forcing the barge against the current and sinking the barge?

A. Boats are liable to spring leaks at any time.

144th x-int. Might that not have been the case?

A. I think there is no probability of it in that instance.

145th x-int. Are these the only reasons that made you believe the accident was caused by the Fisher?

A. The only reasons I had for the matter were as related in the evidence of the entire transactions of the Fisher sinking the barge.

146th x-int. But the reason you came to the conclusion was the sinking of the barge? Have you no other reason?

A. No, I could find no other satisfactory reason, but that it was by the Fisher.

147th x-int. Which stroke of the Fisher do you attribute it to—the one coming in, or as she was going out?

A. I attribute it mostly to the [the] stroke of the wheel, when she was going out—pivoting. It was an injudicious act to land the
123 barge in that way. That is my opinion, and I so expressed it to the captain.

148th x-int. Then do you say that it was the blow that the wheel gave the barge in going out, that caused the damage?

A. I state nothing positively about anything. I give my opinion that it was the stroke of the wheel, that caused the principal damage.

149th x-int. When that stroke occurred, the steamboat was not in motion, was she?

A. Yes, sir; pivoting around, swinging around against the barge.

150th x-int. How long was it after the stroke of this wheel that the barge actually sank?

A. I cannot say how long, but I think it was in the neighborhood of 20 or 30 minutes. I can't say as to the exact time.

151st x-int. How long after the stroke of the wheel you speak of was it until you discovered the muddy water in the barge?

A. Well, I think it was not a great while, before the alarm was given of "barge sinking."

152nd x-int. And how long was it after the wheel struck the barge?

A. I can't say as to time; I suppose ten minutes.

153rd x-int. Did you discover any water the first time you looked?

A. I discovered water, but it was clear—not muddy.

154th x-int. Did you discover any coming in the first time from the outside?

A. No, sir, not the first time.

156th x-int. When you discovered the water coming in the first time, did you set to pumping right off?

A. No, sir, but I charged the watchman.

157th x-int. Did he put them to work?

A. I don't know whether he did or not, but I charged him
124 particularly, and went away to attend to other business, as I said, and did not see anything of the watchman after that.

158th x-int. You directed him to pump?

A. No, sir; I did not think it necessary.

159th x-int. You stated in your examination in chief that it would take some time, even if the knuckles were sprung a leak before the water would come in?

A. No, I did not say, before the water would come in, but before it might find the pump holes.

160th x-int. You did not say it would be some time before the water would come in?

A. No. I said the blow might partially open the seams, so that the oakum would work, and that it would be some little time, before it would admit the water to run through the seams.

160th x-int. Are you to be understood that it would take a long time or a considerable time for the water to get from the sides of the boat to the pumps?

A. No, sir; not a long time, but some time, I said.

162nd x-int. How long?

A. It would just be owing to the space and the force with which the water came in.

163rd x-int. The force of the water would be great in that current, would it not?

A. It would, if there was a large rent made in the hull of the boat, but the opening of the seams would be gradually slow; that is, in working the oakum out, so as to admit free access to the water through the seams.

164th x-int. If the knuckles were sprung seriously, and the boat being in that current and loaded as she was, would it take
125 long for the water to get to the pumps?

A. It might, and just owing to whether the oakum adhered in the seams after the blow or not.

165th x-int. What day of the week was it that this barge was sunk?

A. It was on the thirtieth day of April; I think, Monday; but I am not certain as to the day of the week.

167th x-int. Did you say anything to any of the officers and owners of that boat during that week—the week of the accident—about this loss?

A. I think I did frequently.

168th x-int. Who do you think you spoke to?

A. The chief conversation was with the collector; he is the principal business man of the concern, as far as we are concerned.

169th x-int. You think you did say something that week?

A. Yes, sir; but I am not certain as to the time.

170th x-int. Who else of the officers and owners of the boat did you talk with?

A. I don't recollect speaking with any one; I might, but I don't recollect; I did not have much conversation with others except Mr. Scudder. He attended to the business of supplying the boat, and collecting the bills.

171st x-int. Did you have any conversation with Captain Francis about it at that time?

A. I don't recollect.

172nd x-int. At any time?

A. Yes.

173rd x-int. How long after the accident?

A. I do not recollect.

174th x-int. About how long?

A. A week or two after, I think. It was on a final consultation we had about the matter, and I told him I would pay the coal
126 bills and then bring suit against him for the loss, in order to save a multiplicity of suits and costs.

175th x-int. How much of an owner are you in the Illinois River Packet Co. now?

A. Well, I own in my individual right only two shares.

176th x-int. How much altogether?

A. Walker and Hancock, of which I am a partner, own the principal part of the stock; I own in my individual right only two shares.

177th x-int. Then you are somewhat interested in the result of this suit?

A. Yes, sir; I am interested in it to the extent of a stockholder.

178th x-int. You are one of the principal stockholders; you and your firm?

A. Yes, as related before, my partner and I hold a majority of the stock in the line.

179th x-int. What is the tonnage of the barge Annie?

A. I do not recollect her exact tonnage; in the neighborhood of 100 tons, custom-house measurement; when the barge carried a full load, from 325 to 40 tons.

180th x-int. What was her length?

A. 150 feet.

181st x-int. Her breadth?

A. I think 24 feet, or 24½ feet; I am not certain.

182nd x-int. How old was she at the time?

A. I think about 8 or 9 months; I can't say exactly.

183rd x-int. Where was she built?

A. Either at Sarde's, Ohio, or at St. Mary's, West Va.

184th x-int. How do you know her age, then?

A. I know it from the time in which the barge was brought here.

185th x-int. She was nine months old after she was brought here?

A. About 8 or 9 months.

127 186th x-int. Have you owned her ever since she came out?

A. Yes, sir; I contracted to have her built for the compay; we owned her all the time; she had not been out of our control.

187th x-int. What was her original cost?

A. I think we paid for her there $4,500; that is my recollection; I made the contract about 18 months before. We contracted for a number of barges to be built, and that was one of them. The man complained much at the price he got, when he delivered the barge.

188th x-int. Had she ever met with any accident before?

A. I don't recollect whether she had or not; barges are continually liable to meet with them; but I am not certain as to her.

189th x-int. Where was she running?

A. To Peoria.

190th x-int. Constantly?

A. Yes, sir; sometimes boats passing through bridges with barges have often got slight knocks and accidents that I did not hear of; we frequently meet with accidents of that kind; but as to this one, I don't recollect.

191st x-int. You say you examined to see if she was sinking. Whereabouts in the barge was the springing of the leaks?

A. The side was pressed in, and her aft quarter.

192nd x-int. Which side?

A. The starboard, lying outward as represented.

193rd x-int. How far from the stern?

A. I think about 30 feet; I am not certain; 30 or 40 feet.

194th x-int. Was there any other breach but the one near the stern?

A. I did not notice any other but that; I noticed the

128 knuckle was open, but what was the occasion of that I could not tell.

195th x-int. What part of the barge did you say was first struck when the Fisher came up?

A. I stated, I think, it was about midships; about midway of the barge.

196th x-int. When she first struck, was the stroke any harder than usual in boats landing against the side of the barge?

A. She came in very hard.

197th x-int. Harder than usual?

A. It was a great deal harder than prudent for any boat to land alongside of any barge loaded.

198th x-int. At the time this boat was sinking, did you know of your own knowledge of any damage that had been done to her by the Fisher or the flat-boat?

A. I did not know except as related in my evidence; I cannot be certain.

199th x-int. Did you sign this protest?

A. Yes, sir; (examines paper.) That is my signature.

200th x-int. In this protest is the following: "D. J. Hancock, one of these deponents, was on board the "Annie" at the time the "Fisher" landed against her, and immediately afterwards looked into the spaces left in the storing of the cargo, in order to put in the pumps, but did not discover that any water was in the barge; about half an hour after this an alarm was given that the barge was sinking, and before anything could be done to save her, or any part of her cargo, she turned over, bottom upward; and further, it appears: It is supposed that when the tow boat "Fisher" landed
129 against the barge "Annie" she injured her so much as to cause her to sink." When you swore to this protest you did not know then that the damage was caused by the Fisher; did you?

A. I did not know, only that was my impression.

201st x-int. Was it not only merely a supposition?

A. No, sir; no, sir; never merely a supposition on my part.

203rd x-int. Why do you say in this protest?

A. The language of the protest is only the language of the notary public. I tried two or three times to get him to alter it, and put words in that I stated in my deposition; but he said that was enough.

204th x-int. Why did you sign it, if it is not correct?

I do not say it is not correct, but I say the notary——

205th x-int. Was it not true that it was a supposition at that time?

A. No, sir; it was the supposition of nobody about there.

206th x-int. Was it not your supposition that the barge was injured by the Fisher?

A. Yes, sir; it is my supposition, and always has been.

207th x-int. Was this sworn to on the day of the accident?

A. Yes, sir; according to my recollection of it.

208th x-int. Was it correct?

A. It is correct as regards the main facts of the sinking; but it is not correct in detail; because the notary would not put down what I wanted him to put in the protest.

209th x-int. You stated in your examination-in-chief that you arrived at the amount of freight, and weights of the different articles, by an average. How was that?

130 A. We made an average by the general weight of sacks.

210th x-int. You did not weigh these?

A. No, sir; we could not. We are constantly receiving by the

boats; shipments constantly arrive by the boats to these same consignees, and the way in which we arrive at the weight of shipments, is by average of the shipments to the parties generally.

211th x-int. Well, then, it is only an estimate at best, is it?

A. Yes; it is an estimate of the weight; it is not the actual weight.

212th x-int. How about the prices?

A. The prices are those current on that day.

213th x-int. They are the estimated prices?

A. No.

214th x-int. You didn't sell that? did you?

A. I did not; but I sold other grain on the same day; the day after and before.

215th x-int. Will you swear that that was the actual price of pork on that day?

A. I can't say that; I stated in my examination-in-chief that I was not dealing in it.

216th x-int. I ask if that was not an estimate?

A. I say that it is the quotation of pork on that day.

217th x-int. Is it the actual price?

A. The rate at which it is quoted.

218th x-int. An estimate from the market quotation?

A. Yes.

219th x-int. To whom was the largest portion of these goods consigned?

A. I can, I think, tell from memory. The pork was con-
131 signed to Cole & Bros.; 500 bags of corn, the first time, I think, to Dutcher and Co.; and there was 762 sacks of oats consigned to D. J. Hancock & Co.; and 710 sacks of corn, 851 sacks of oats, consigned, I think, to Finley & Co.; 50 bbls. high wines, consigned to Illinois River Packet Co., to be forwarded to Cincinnati, of which 25 bbls. were saved.

220th x-int. Did any of that freight belong to the Illinois River Packet Co.?

A. No, sir, not a package of it; the barge was the only thing that belonged to the Illinois River Packet Co.

(Signed) DANIEL J. HANCOCK.

132

133 *Exhibit A.*

Cole Brothers, 100 bbls. pork.			
Dutcher & Co.,	×	500 sks.	corn.
Fisser, Ewald & Co.,	P	73 "	"
	G	393 "	oats.
	D	53 "	"
D. J. Hancock & Co.,	Mc	270 "	"
	Mc	230 "	"
	40	262 "	"
	10	60 "	corn.
Fenly & Co.,		100 "	oats.

	O	394 " "
		357 " "
Re-shipment, Hammolier cinnatu		
	No. 14	50 bbls. H wines.
E. O. Stanard	A	348 sks. corn.
	B	151 " "
	S	616 " "
Blumfield & Co.,	××	12 " wheat.
Owner on board,		1 cow.
		Lot H. H. goods.

St. Louis, April 30th, 1866.

134 *Exhibit D.*

Invoice of barge Anna and cargo sunk by towboat Francis Fisher 30th April, 1866.

Barge Anna	$5,000 00
×500 bags corn 1,125 bu., @ 68 c	765 00
100 bbls. mess pork, @ $28 50	2,850 00
P 73 sks. corn 159 bu., @ 68c	108 12
G & D 446 sks. oats 1,784 bu., @ 45c	802 80
Mc & 40 762 sks. oats, 3,224⅕ bu., @ 45c	1,450 81
10-60 sks. corn, 130 10-100 bu., @ 70c	91 13
—O 851 sks, oats, 3,404 bu., @ 45c	1,531 80
25 bbls. high wines, 1,250 gal., in bond, @ 20c	250 00
ABbs 1,115 sacks corn, 2,451 bu., @ 68c	1,666 68
12 sacks wheat, 25 bu., @ $2	50 00
	$14,566 34
	14,565 34
	5,000 00
	$9,566 34

135 [Here follows diagram M 1—Exhibit C.]

136 [Here follows diagram M 2—Exhibit B.]

"*Exhibit D.*"

147 *The deposition of William T. De Witt, on behalf of the libellant, taken before Edmund T. Allen, esq're, a notary public, of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the 21st day of November, A. D.* 1866.

William T. De Witt deposeth and saith, in answer to interrogatories and cross-interrogatories, as follows, viz:

1st int. What is your place of residence, age, and occupation?

A. I reside in St. Louis; am 33 years of age, and a steamboat captain.

2d int. Were you on the City of Pekin in April last when the accident happened to the barge Anna?

A. Yes; I was captain of the City of Pekin at the time.

3d int. Where did you bring the barge Anna from?

A. Peoria, Illinois.

4th int. How was she loaded?

A. She had a very fair load on.

5th int. What did her cargo consist of?

A. Grain, pork, and whiskey; mostly grain.

6th int. About what was the value of the cargo?

A. I should judge the cargo was worth about $15,000.

7th int. What was the barge worth?

A. Well, I supposed at the time, she was worth about $7,000.

8th int. You say she had a pretty fair load, was it anything extra?

A. No, sir; I have had them loaded from 8 to 10 inches deeper, the same barge, and took them out to Cairo.

9th int. How much would she show above water with her load at that time?

A. From 16 to 18 inches.

138 10th int. How did you fasten her when you brought her to the port of St. Louis?

A. I landed her on the outside of the Belle of Pike, and made her fast to a barge that laid right across the bows of the Belle of Pike and the wharf-boat.

11th int. What part of this barge that laid across the bows of the Belle of Pike, did you fasten the Anna to?

A. The outward end—the part that laid out in the river—right to the bits at the end of her.

12th int. Was there any boat laying above that barge, near to her, at the time you landed her there?

A. No, sir, no steamboat. The ferry-boat landing was about 40 or 50 feet above that.

13th int. When you had effected the landing of the barge Anna, what did you do with the City of Pekin?

A. I dropped her down and came in to the stern of the wharf-boat.

14th int. How did you land the City of Pekin?

A. I got a line out to the wharf-boat, took it to the capstan, and hauled her up partly with that and partly with the engine.

15th int. Did you bring her alongside the Belle of Pike?

A. I brought her under the Belle of Pike.

16th int. She was a smaller boat than the Belle of Pike?

A. Yes, sir.

17th int. In bringing her under the Belle of Pike, how much, if any, was the Belle of Pike thrown up stream—the stern of the Belle of Pike?

A. Her stern would be thrown out probably 20 feet; we throwed it out probably that far.

139 18th int. Did you see the Francis Fisher when she came in?

A. Yes; I saw her round in there.

19th int. What position did you occupy on the City of Pekin at the time the Fisher came in?

A. I was standing on the stern of the boat,

20th int. Did you have a full view of the Fisher and the barge Anna from where you stood?

A. No, sir; I did'nt.

21st int. How did the Fisher come in?

A. She came in what I considered very hard. She came in quartering across the current.

22d int. Could you see how near she came to the barge Anna?

A. I saw that she struck it.

23d int. What part of the Fisher struck the barge?

A. I could'nt say whether it was the steamboat or a coal flat she had in tow. I judge it was the coal flat that struck her.

24th int. How did she have the coal flat in tow?

A. On the larboard side—on the inside.

25th int. Did you see her when she landed the flat?

A. I saw her when she came in there.

26th int. Did you see her when she rounded out?

A. No, sir; I was'nt paying attention to her at all when she rounded out. I don't recollect seeing her go out at all.

27th int. When the Fisher came in how was the barge Anna lying with reference to the current?

A. She was laying about as straight as a boat could lay in the current—right straight up and down with the current.

28th int. Did you hear anything said by Hancock, or any one else at the time the Fisher came in?

A. I did'nt hear him say anything. I saw him waiving
140 his hand though, for to keep off. I saw him do that three or four times.

29th int. Had your attention been directed to the barge at the time the Fisher came in?

A. No; not particularly, only that I noticed she was coming in very hard.

30th int. That you noticed?

A. Yes, sir.

31st int. How was the Fisher handled in coming in? I ask you professionally.

A. I think she was handled pretty awkward.

32d int. How long have you been engaged in steamboating?

A. Between 22 and 23 years.

33d int. How long have you been captain?

A. Well most of the time, for the last 12 years.

34th int. Did you ever act as pilot?

A. Yes; that was formerly my business.

35th int. How long did you act as pilot?

A. Since I was 16 years old—that is about—I went on the river when I was 13, and I stood a watch when I was 16; it would be about 20 years.

36th int. You say you have been a pilot 20 years?

A. Yes; in the neighborhood of that—pilot and captain both. I have been on the river 23 years, and was a pilot 3 years after I went in.

37th int. You know the position of the barge Anna, and the position of the Belle of Pike at the time the City of Pekin was made fast to the wharf-boat? I ask you now, whether the bringing in the City of Pekin to her landing, and throwing out the stern of the Belle of Pike would effect the position of the barge Anna dangerously or otherwise?

141 A. No, sir; it would'nt materially affect it one way or the other. If she had been shoved a good deal further out it would'nt have done it. The barge could have laid square across the current and it would'nt have sunk.

38th int. You mean that a barge loaded as that was could have laid square across the current without danger?

A. Yes; at least she wouldn't have sunk; she would have been in a dangerous position.

39th int. How much could the coming in of the City of Pekin throw out the barge into the current.

A. I don't think over 20 feet.

40th int. And you left her lying along with the current?

A. Yes, sir.

41st int. When she was laying with the current, her stern was near the Belle of Pike?

A. Yes, lapping against it.

42nd int. And her bow?

A. Was laying right under this barge that was laying square across.

43rd int. How far was her bow in that position from the Belle of Pike?

A. I should judge 10 feet; 10 or 15.

44th int. How was the Belle of Pike laying with the current?

A. Very near straight with it.

45 int. Will you make a diagram representing the position of the boats and barges at the landing?

The deponent thereupon made the diagram hereto annexed marked "Exhibit A."

142 [Here follows diagram.—Exhibit "A."]

143 46th int. The positions of what boats and barges does that diagram indicate?

A. Its represents the ferry-dock, the wharf-boat, the Belle of Pike, City of Pekin, Maria Denning, the barge Anna, and another barge I don't know the name of.

47th int. Did you consider that there was anything unsafe about the position in which you left the barge Anne, at the time you left her?

A. No, sir; I didn't.

48th int. Did you see the barge Anna when she sunk?

A. No, sir.

49th int. Where were you at the time she sunk?

A. I was in the cabin of the City of Pekin.

50th int. When did you first get information about the sinking of the barge Anna with reference to your landing?

A. It was about 20 minutes after I landed, I suppose.

51st int. How long had you known that barge?

A. Well, I had known the barge about a year, to the best of my recollection.

52nd int. In what condition was she?

A. She was in first rate order. I don't think there had been a pump used on her from the time we left Peoria until we arrived here, not to my knowledge.

53rd int. Had you met with any accident on your trip from Peoria down?

A. No.

54th int. How often had you towed her before?

A. Well, I suppose I had probably made 12 or 15 trips with her since we had her; since she has been built.

144 *Cross-examination.*

1st x-int. To whom did that barge belong at that time?

A. The Illinois River Packet Company.

2nd x-int. To whom did the City of Pekin belong?

A. To the Illinois River Packet Company.

3rd x-int. You were in the employ of the Packet Company?

A. Yes.

4th x-int. Are you now?

A. Yes, sir.

5th x-int. To whom did the freight belong?

A. It was consigned to various parties here in town, I don't know who now.

6th x-int. Where was it shipped from?

A. Mostly from Peoria.

7th x-int. By shippers there consigned to various parties here?

A. Yes, sir; some portions of it were taken in at other landings along the river.

8th x-int. I wish to call your attention to this diagram here. How was it possible for the barge Julia to occupy a position directly across the current as represented there?

A. She must have been lying down this way, when the Pike came in and shoved her up.

9th x-int. You intend to show that the Pike touched her?

A. Yes; that is bad drawing.

10th x-int. If she laid out in the stream that way, and the barge Anna attached to her, what effect would it have had on the barge Julia?

A. If the inside end of the Julia was not fastened, it would have a tendency to draw her down.

11th x-int. If she was fastened wouldn't it have the same
145 tendency?

A. It might have drawed her down some little.

12th x-int. Are you positive that, at the time you speak of, that barge was directly across the stream as represented there?

A. She was very near it, as it is intended there to be a little quartering.

13th x-int. You represent on this diagram that the City of Pekin does'nt touch the Belle of Pike. Didn't she touch her?

A. She did when she came in, but I am not sure that she did afterwards. The bow of the Pekin must have been from 25 to 40 feet up above the stern of the Pike.

14th x-int. Do you mean to say now that she didn't, when she lay there, touch the Belle of Pike?

A. No, sir; I wouldn't say so.

15th x-int. Is the diagram correct then?

A. No, sir; she ought to touch.

16th x-int. Did the Pekin touch the Maria Denning?

A. Yes.

17th x-int. Then that diagram does'nt represent the proper situation of the Pekin and Maria Denning?

A. No.

18th x-int. That is, they actually touched.

A. Yes; then touched for 80 feet, I guess.

19th x-int. What is the length of that wharf-boat?

A. 200 feet.

20th x-int. How far up frem the lower end of the wharf-boat was the utmost portion of the bow of the Pike when she was fastened?

A. She must have been, I suppose, at least 40 feet.

21st int. According to that diagram, the barge Anna's bow
146 was out in the stream more than her stern; was that a fact?

A. Yes, it would look so; but she was straight with the current.

22nd x-int. Was she exactly plum with the current after the Pekin came in?

A. I wasn't there to see.

23rd x-int. Does this diagram purport to represent her after the Pekin came in?

A. That wasn't the intention.

24th x-int. Then you don't pretend to say that that was the exact position of these boats after the Pekin come in?

A. No; for I wasn't out there to see.

25th x-int. Then that diagram is not a correct representation of the boats and barges after the City of Pekin came in, is it?

A. No; I shouldn't say it was.

26th x-int. According to that diagram, the stern of the Belle of Pike is out in the stream somewhat. What causes that?

A. Because her bow is held in close across the head of the wharf-boat.

27th x-int. Is that the only thing that throws that out?

A. Yes.

28th x-int. Didn't you, in coming in there, throw her stern out?

A. Yes.

29th x-int. How far?

A. I suppose 15 to 20 feet.

30th x-int. This represents her before you came up under her?

A. Yes.

31st x-int. When you came in then, then the stern of the Belle of Pike was 20 feet further out of the stream than she is now, as represented in that diagram?

A. I should judge she was.

32nd x-int. In reference to that—whereabouts was it the Fisher landed?

147 A. She landed right outside the barge Anna.

33rd x-int. Whereabouts on the Anna did she first touch?

A. I didn't see her; I was on the stern of the steamboat.

34th x-int. Which way was the Fisher coming when she went in, down stream or up stream?

A. She was coming up stream.

35th x-int. Do you say she came up there and landed beside that barge, just as she lies the e?

A. Yes.

36th x-int. Where did she land the coal flat?

A. I don't say she landed it at all; I think she went off with it again. I don't recollect seeing it at all after the barge turned over.

37th x-int. How long was the Fisher there?

A. Well, I judge she wasn't there more than probably ten minutes; maybe not that long. I don't know; I wasn't paying any attention to her at all.

38th x-int. You didn't see any coal flat?

A. Yes; I saw her have one in tow.

39th x-int. Did you see where she left it?

A. No; my impression is, she took it off with her again.

40th x-int. How far is it from this wharf-boat of the Packet Company to the ferry landing?

A. I don't think it is over 50 feet.

41st x-int. How near to this barge Julia did the ferry boat come, in rounding to and going up to the ferry-boat landing?

A. Tolerable close.

42nd x-int. How close?

A. They would sometimes come in there as close as 25 feet; at other times they came in higher up.

148 43rd x-int. What would be the usual course?

A. 50 or 75 feet.

144th x-int. Did you see any of them coming up during the time you were there?

A. Not to my recollection. I think one did, though.

45th x-int. Now, would it be a difficult matter to land a boat alongside of that barge, where she was laying parallel with the stream?

A. No; they ought to land very easy there.

46th x-int. You say the Fisher came up hard. What do you mean by that?

A. Instead of settling in easy with the current, she came in quartering across the current.

47th x-int. Can you mark on that diagram the course of the Fisher from the time you first saw her?

A. I don't know; I could try. To the best of my recollection I could do it; but I was paying very little attention to her. I was landing my own boat. I just know she was there, and saw her coming in.

48th x-int. How do you know, then, as you stated, that she struck the barge?

A. I saw her, when she came in, go against it. I can't say that I saw her strike the barge; but I know, of course, she done it.

49th x-int. You think she did?

A. I didn't see it, but I think she did. I know she couldn't help it.

50th x-int. Will you swear that the Fisher, when she came in there, touched the barge Anna at all?

A. I would swear there was a just God; but I have never seen him.

149 51st x-int. Would you swear to that?

A. Yes.

52nd x-int. You swear that she did touch her?

A. Yes.

52rd x-int. Didn't the Fisher come in above the barge Julia?

A. No; I know she didn't.

54th x-int. Will you swear she didn't land a coal barge along the upper side of the Julia?

A. No; she might have shoved it up there afterwards.

55th x-int. You won't swear that she didn't?

A. No.

56th x-int. Where would be the most natural place for a boat to land a coal barge, for the purpose of coaling the Belle of Pike? Alongside the Julia, as she lays there on the diagram, or alongside the Anna?

A. We would naturally make it fast to the Anna, and come in under her.

57th x-int. Suppose the coaling boat wanted to leave a flat for the purpose of coaling the Belle of Pike, where would be the best position to land the coal flat?

A. At the stern of the Pike.

58th x-int. Would that be as convenient for getting the coal on board the Pike?

A. That is the way they always do. It would be the easiest way of getting at it.

59th x-int. Is it usual to land a coal barge at the stern of a boat, to load coal on her?

A. No, sir. When there is nothing in the way, they land them right along, about amidships, a little forward of midships.

60th x-int. Wouldn't it be a better place to land a coal barge alongside the Julia, the way these boats were situated, for the purpose of coaling the Belle of Pike?

A. No, sir.

150 61st x-int. You didn't see any coal flat?

A. Yes; I saw one in tow.

62nd x-int. Did you see one landed there anywhere?

A. My impression is, she took it off with her.

63rd x-int. Did you go on board the barge Anna at all, after the Fisher came up?

A. Not until after she was sunk.

64th x-int. Where were you when she sunk?

A. I was in the cabin of the City of Pekin.

65th x-int. How long after you had landed your boat, got her fastened to the wharf-boat, did the barge sink?

A. I should judge about 10 minutes after I had got into the cabin; after I had landed the boat.

66th x-int. What distance was the bow of the Maria Denning from the wharf-boat?

A. Well, I don't remember. She was pretty close up to it, I think; say 15 or 20 feet.

67th x-int. She was within 15 or 20 feet?

A. I would judge so.

68th x-int. When you had landed, in reference to your boat, where was the wheel of the Belle of Pike? What part of your boat did the wheel of the Belle of Pike come nearest?

A. Just about my stern, I should judge.

69th x-int, What do you mean by the stern?

A. The very front part of the boat, the bows.

70th x-int. What was the distance from the bow of the barge Anna to the steamer Belle of Pike, as she laid there?

151 A. I suppose it must have been from 10 to 12 feet, probably 15 feet; somewhere in that neighborhood.

71st x-int. Then, if three was 10 or 12 feet between the bow of the barge and the bow of the Belle of Pike, how does it happen that the barge's bow lies so far out in the stream, while the Belle of Pike lies in towards the shore?

A. Well, the Pike was made fast to the bow of the wharf-boat. They had lines, then, to haul her in when they first landed her.

72nd x-int. What was the length of the barge Anna?

A. One hundred and fifty feet, I think.

73rd x-int. What was the length of the Belle of Pike?

A. I don't know; she must be 210 feet.

74th x-int. What was the length of the barge Julia?

A. I don't know much about her. I should judge probably about 130 feet.

75th x-int. Then, if the barge Julia was 130 feet long, does that diagram represent the proper distance, so as to show only 10 or 12 feet between the bows of the Pike and the bows of the Anna?

A. Yes; I think that is the right distance between the bows of

the barge Anna and the bows of the Pike; but the wharf-boat, you know, is sparred off from the shore, and the bow of the barge was against the bank.

76th x-int. Was the barge Julia as long as the Belle of Pike?

A. Oh, no.

77th x-int. Isn't she so represented on that diagram?

A. Yes; I made that diagram only to show the relative positions of the boats—where they were laying.

78th x-int. That diagram isn't correct in that particular?

152 A. No; it was only to give an idea how the boats were laying at the landing.

79th x-int. You don't say, then, that that is correct?

A. No, sir; only as far as regards the positions of the boats.

80th x-int. Does that represent the position of the boats after the Pekin came in, or before?

A. It ought to be, those boats, they way they were lying before she came in under the Pike.

81st x-int. Did you not, in reply to a question of Col. Broadhead, say that it represented the position of the boats after the City of Pekin came in and fastened to the wharf-boat?

A. It represents both. Her coming in didn't materially change the situation of any of the boats, the Pike or the barge.

82nd x-int. Did you not say that it threw the stern of the Pike out about 20 feet?

A. Yes.

83rd x-int. Didn't it also throw the barge out the same distance?

A. Yes, of course; the barge had to go out with it.

84th x-int. What was the distance, before you went in, between the Belle of Pike and the Maria Denning?

A. Well, I wouldn't be positive. I should think it would be 30 or 40 feet. I don't think we touched the Pike; I wouldn't be sure; I ain't sure we touched the Pike as we laid alongside the Maria Denning, though I ain't certain about it.

85th x-int. Why did you then land the barge where you

153 did, when there was so much room at the wharf-boat?

A. Because we intended to have a tow boat take her and land her at some other landing where there was room to discharge her.

86th x-int. She was only left there temporarily then?

A. Yes.

87th x-int. Where was the watchman who came down on her?

A. He was on board the last I saw of him.

88th x-int. Was he on her when the Fisher came in?

A. I ain't sure; he was on her about 10 minutes before though. I left him on her.

89th x-int. Do you know what the watchman's name was?

A. Steve Conley.

90th x-int. Where is he now?

A. Well, I don't know. I was told this evening that he was on the steamer Olive Branch.

Re-examination.

55th int. Mr. Knight asked you whether the diagram represents the positions of the boats before or after the City of Pekin came in under the Belle of Pike, and you answered, I think that it represented both position, do you mean to say that it represents both positions in all respects, or only in some?

A. No, not altogether. The Pike would of course be a little further out, but not much.

56th int. And the City of Pekin would be a little further up above the Denning, then she is represented there?

A. Yes.

57th int. You mean to say that that diagram represents the relative position of the boats towards each other?

154 58th int. After the City of Pekin came in under the Belle of Pike, she would be higher up on the wharf-boat than is represented on that diagram?

A. Yes, her bow ought to be little higher up the Pekin's bow.

59th int. Did you see the barge Anna after she was sunk?

A. Yes. I was on her bottom, after she was sunk.

60th int. Did you observe anything about the boat that indicated the cause of her sinking?

A. No; because when I was on her, there was not over 10 feet of her knuckle out, and I got on it and bored some holes to make a line fast.

(Signed) WILLIAM DEWITT.

John Lochhead.

The deposition of John Lochhead, on behalf of the libellant, taken before Lillie L. Walbridge, esq., a notary public of St. Louis county, Missouri, at the city of St. Louis in said eastern district on the twenty-first day of November, A. D. 1866.

John Lochhead; residence, St. Louis; about 35 years of age; occupation 2nd mate, deposeth and saith in answer to interregatories and cross-interrogatories, as follows, viz:

1st int. How long have you lived in St. Louis?

A. 13 years.

2nd int. What is your present business?

A. 2nd mate of the Woodward.

3rd int. Do you know the steamer Francis Fisher?

A. Yes, sir. I have seen her; been alongside of her coaling up several times.

155 4th int. Were you present in April last at the sinking of the barge Annie?

A. Not at the sinking, I was not present then.

5th int Did you see her before she sunk?

A. Yes, I was aboard of her.

6th int. Did you see the Francis Fisher, when she came in?

A. No, sir. I did'nt see her coming in.

7th int. Did you see her after she came into the port of St. Louis?

A. Yes, sir. I seen her laying at the barge or trying to get out from the barge.

8th int. State when you first saw the barge, and where the Fisher was when you first saw her?

A. About 9 o'clock that morning, I guess—between 9 and 10—I don't know the day of the month. I came down to the barge to see Mr. Hancock about going down on the steamer "Bardstown," and I found him aboard the barge. I crossed the "Belle of Pike's" deck and went on the barge, talking about going down on the Bardstown. The Francis Fisher was lying beside the barge, working her starboard wheel, and her larboard wheel against the sides of the barge Annie. At the time she was doing that, her head was swinging round pretty fast, and her guards rolled the whiskey inboard on the barge, and the whiskey barrels was upheaded on the barge's deck. I made the remark to Mr. Hancock that he ought to tell the captain to stop her, and then I left and went aboard the Belle of Pike. That is all I saw.

9th int. How was the barge Annie fastened when you went
156 aboard?

A. I can't tell. I was standing on the stern, and I wasn't looking about the fastenings.

10th int. What boat was she laying by?

A. By the Belle of Pike.

11th int. How close was the barge Annie to the Belle of Pike?

A. I cannot say; but I think then her stern was close up to the Belle of Pike's wheel. It must be, but I can't say for certain, because I did not look.

12th int. While you were on the barge was any part of the steamer Fisher touching the barge?

A. Yes sir; her wheel. I noticed her wheel against the sides of the barge; her larboard wheel.

13th int. Where was the whiskey barrel you spoke of in your former testimony; where was that situated?

A. They were upheaded on the running boards of the barge, or the deck of the barge.

14th int. What was it you stated knocked over the whiskey barrels?

A. The guards of the Fisher.

15th int. When you left the barge to go aboard the Belle of Pike, what position did you leave the Fisher in?

A. She was still swinging, her head up stream.

16th int. How near the barge?

A. The stern of the Fisher was at the stern of the barge, and her head was up the stream.

17th int. When you say the stern of the Fisher was right at the stern of the barge, do you mean she was close to the stern, or touching the stern?

A. Yes, sir; right close up against it.

157 18th int. You say the head of the Fisher was up stream, was she in the act of turning at that time round in the river?

A. Yes. I could see her waves coming from the starboard outside wheel, and her head was coming round.

19th int. Where did you go to after that?

A. I went to my work, away down pretty near the arsenal to a steamboat.

20th int. Did you stop on the Belle of Pike?

A. No, sir. I walked straight over.

Cross-examination.

By the respondent:

1st x-int. You say, when you first went down to the barge, that you found the boat Fisher lying beside the barge do you?

A. I found her stern against the stern of the barge.

2nd x-int. Did you see the guard of the Fisher strike the barrels on the barge?

A. Yes, sir; when I was on the barge, she was knocking the barrels inboard with her guard.

3rd x-int. What part of the barrels did the guard strike?

A. Well, I can't say.

4th x-int. You can say whether the bottom, top, or middle?

A. I guess pretty near the top—she must have struck pretty near the top—I can't be certain, I did not pay particular attention, but I saw she was knocking the barrels over.

5th x-int. Was the boat Fisher swinging at the time?

A. Yes, sir; her head was swinging out in the current.

6th x-int. At the time you went aboard of the barge?

A. Yes, sir.

158 7th x-int. How long did you remain on the barge?

A. Not over two or three minutes, I don't believe.

8th x-int. You say the Fisher was there when you left?

A. Yes, sir; there when I left.

9th x-int. With her stern against the stern of the barge?

A. Yes, sir.

10th x-int. Did you see what condition the barge was in at the time?

A. No, sir. I had not anything to do with it. I went to see Mr. Hancock, and paid no attention.

11th x-int. Was she loaded?

A. I should judge she was loaded—about the usual thing—pretty generally loaded.

12th x-int. Was she not heavily loaded?

A. Well, sir, I don't think she was to my best knowedge.

13th x-int. What freight, if any, was on her deck?

A. Well, there was whiskey around at the stern. I did not pay any any attention but what it was all over the deck. I seed whiskey standing along the running boards.

14th x-int. Did you see anything else but whiskey?

A. Yes, sir; I seed sacks of corn.

15th x-int. Was there anybody on the barge but Mr. Hancock, at the time?

A. I did not see any person but Mr. Hancock on the barge I was on.

16th x-int. What part of the barge were you on?

A. The stern.

17th x-int. Were you on any other part?

A. No, sir.

18th x-int. Did you see anybody on the Fisher?

159 A. Yes, sir. I seed the crew of the Fisher, and the captain standing on the roof.

19th x-int. In whose employ were you at the time?

A. I was in no person's employ. I was just employing here at that time by Mr. Hancock.

20th x-int. How long did you work for Mr. Hancock?

A. I guess about two months after that for Mr. Hancock.

21st x-int. What were you doing during those two months?

A. I went to work, when I hired, to watch the steamer Bardstown.

22nd x-int. You were watchman, then?

A. Yes, sir; at that time.

23rd x-int. In whose employ are you now?

A. Mr. Hancock's.

24 x-int. You say you are 2nd mate?

A. Yes, sir.

25th x-int. How long have you been second mate?

A. I don't know how long the boat has been out; about three weeks, I think.

26th x-int. Have you talked with Mr. Hancock anything about this case?

A. No, sir; I talked no more than to-day; he told me to come here.

27th x-int. You have not talked with him until to-day?

A. To-day he said to me to come here; that is all the talk I ever had with him.

28th x-int. Did he ever ask you whether you remembered anything about the case?

A. No, sir; he made the remark to me to-day to come here and state what I seed on the barge.

29th x-int. Did not Mr. Hancock talk with you before to-day in reference to this testimony?

A. No, sir.

30th x-int. How do you know that what you saw took place

160 in April last?

A. Well, sir, the way I know it I was standing there at the time. I was talking to Mr. Hancock, and I was looking———

31st int. What month was that?

A. Mr. Hancock says it was in April.

32d x-int. How do you know? from what Mr. Hancock says?

A. He said it was in April; that's all I know.

33 x-int. Then you know from what Mr. Hancock says?

A. That is all I know about it. I did not pay any attention to the thing at all. I never kept a memorandum of the thing, because I never expected to be called on.

34th x-int. What time in the day was it?

A. I judge between 9 and 10 o'clock; I cannot be certain; in the morning.

35th x-int. How long have you been on the river?

A. 13 years back and forwards, sir.

36th x-int. In what capacity have you served during that time?

A. I have been deck hand, watchman, 2nd mate, mate, and fireman.

37th x-int. What boats have you been on?

A. Well, I have been on so many, I can't exactly tell the names of all.

38th x-int. What rivers? Where were they running?

A. Running on the Missouri, the Upper Mississippi, the Illinois, the Kansas river, the Red river, the White river, all over.

39th int. Run all the rivers, have you?

A. Yes, sir.

161 40th x-int. Did you see any other barge in front or ahead of the Annie?

A. No, sir; I did not.

41st x-int. Did you see the steamer City of Pekin anywhere there?

A. No, sir; I did not then but after; not at that time.

42nd x-int. Did you see any of the ferry-boats passing in and out at that time?

A. No, sir.

43rd x-int. Did you see any water in the barge Annie?

A. I did not look, sir.

44th x-int. What did Mr. Hancock say to you about the barge?

A. Nothing to me at all; not a word.

45th x-int. What was Mr. Hancock doing at the time?

A. He was standing on the stern of the barge, apparently watching the Fisher.

46th x-int. You say he did not say anything to you?

A. No, sir.

Direct examination resumed.

By the libellant:

21st int. Did you have any conversation with Mr. Hancock at all on the barge?

A. No, sir; I made the remark to him, and he never answered me back.

22nd int. What is your own recollection, independent of what anybody else says, about the time of year when this took place?

A. I judge it was in the month of April, but I don't recollect the day, because I never expected to be called on.

23rd int. Last April, you mean?

A. Yes, sir.

14th int. You stated, in your cross-examination, to one of

162 Mr. Knight's questions, that you saw the City of Pekin after-

wards; when was it you first saw the City of Pekin on that occasion?

A. That was after I went ashore. I passed by her; she was lying there.

(Signed) JOHN LOCHHEAD.

The deposition of A. C. Dunlevy, on behalf of the libellant, taken before Lillie L. Walbridge, esq., a notary public of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the twenty-third day of November, A. D. 1866.

A. C. Dunlevy.

A. C. Dunlevy, 29 years of age; residence, St. Louis; occupation, secretary of the Illinois River Packet Company, deposeth and saith, in answer to interrogatories and cross-interrogatories, as follows, viz:

1st int. Do you know anything of the cargo on the barge Annie at the time she sank?

A. No; I know she had 50 barrels of high wines, a lot of pork, oats, corn, and a few sacks of wheat. She had a full lot of freight. I did not see the barge till after she sunk, and then I seen her bottom up.

2nd int. How long after she sunk was it that you saw her?

A. She had been sunk about half or three quarters of an hour.

3rd int. Did you examine the hull of the barge when you saw her?

A. I examined the knuckle; that is all I saw at the time. After she turned bottom upwards, we tried to bore a hole to get hold of one of her top timbers, and I saw one of her quarters.

163 I could not see, at that time, any injury; but after the water fell, and the barge was left on the wharf, I could see she had been injured.

4th int. How long after?

A. I don't know; it was a month or two that the water fell enough for me to see the injured part.

5th int. What was the injury you speak of seeing?

Her side had gone in, and left the upper wall streak, or upper side plank, on the barge against the beam ends, and left a space between the plank of, I suppose, two or three inches for a distance of 5 or 6 feet, which ran off into nothing each way, and in the middle it was 3 or 4 inches from the other plank. It was evident, from the appearance, that something had struck her about the second plank from the top, the second streak of the wall, and shoved her side in. The upper streak of the wall could not go in on account of being against the beam ends which held it out. The top timbers and all canted in; that was after the water had fallen.

6th int. Had she been moved from her position from the time she first sunk?

A. Well, indeed, I can't tell. It seemed to me her bow was further out—the upper end—the end from the river.

7th int. Do you know the value of the barge?

A. I think the barge was worth to us—at least to us—$5,000. We paid $4,500 for her in the Ohio river. We got her built cheaper at that point than we could at any other place. She was a good
164 barge; about the last we had built, and we had her towed round here, and had her sheeted inside, which added more to her value.

8th int. Who did the barge belong to?

A. The Illinois River Packet Co.

9th int. How old was she?

A. I think she was between 8 and 12 months. I can't state exactly. I could tell very near by reference to the books.

Cross-examination.

By the respondent:

1st x-int. How long have you been secretary of the Illinois River Packet Co.?

A. A little over a year.

2nd x-int. Did you see the barge Annie frequently after she sunk?

A. Yes, sir; I saw her lying on shore often.

3rd x-int. Did you see an effort made to pull her off the landing by the Fisher?

A. I saw the Fisher in there putting out a line, but I had not time to stay. I saw Mr. Hancock there, and went up to the office. I did not see the Fisher trying to pull her off. I saw her coming in with a line.

4th x-int. Was there any effort to raise her?

A. Yes, sir, the bell-boat tried to raise her to get her into the stream.

5th x-int. What bell-boat?

A. The Salvor.

6th x-int. Were you there when the wrecking-boat was working at her?

A. Yes; I was there two or three times.

7th x-int. How long did they work at her?

A. They spent one day, or perhaps more.

8th x-int. Were they trying to raise her?

A. To get her into the stream, or raise her and get her into
165 the stream, and save her if they could. The harbor master wanted her out of the way.

9th x-int. When you first noticed her after she sunk, you saw nothing but the bow above water?

A. Well, just a little of the knuckle was all I seen.

10th x-int. How long after that was it before you saw her so as to examine her?

A. About—well, it was a month or two, perhaps, from that. It was at least a month that I could not see the barge to examine her all along.

11th x-int. Did this examination take place before or after the bell-boat had tried to raise her?

A. Oh, this was after.

12th x-int. How might not the wall streaks that you saw sprung have been sprung by the attempts made by the Salvor to raise her?

A. Not by the Salvor; it could not.

13th x-int. Might it not by the Fisher attempting to pull her off?

A. It might possibly have been so. I was not there then, and I don't know how hard she pulled; but I don't really think it could have been done by the Fisher either, the way it was.

14th x-int. Might it not?

A. If I had known where she hitched her line, I could tell.

15th x-int. Do you say it was impossible for that effect to be produced by the bell-boat?

A. From where I saw the bell-boat trying to raise her it would be. The bell-boat had hold of the upper end, and this was the lower quarter.

16 x-int. Didn't the bell-boat have hold of the lower end as well as the upper end?

A. No, sir; not while I was there; just at the upper end
166 where she was trying to take her out.

17th x-int. How did she lay on the levee when you examined her?

A. Quartering on the levee for a month or two after she sunk.

18th x-int. Which side up?

A. Bottom side up.

19th x-int. Did she lay in an easy position, or a straining position?

A. When I first saw her she was lying easy, but after the water had fallen down to where it is about now, she hung on the bank. There is a brink in the levee, and she hung over it.

20th x-int. That is the time you examined her?

A. Not at first. Then I could not see.

21st int. How was she when you examined her the last time?

A. The last time I seen her she was laying a little bent over the brink.

22nd int. When you examined her and saw her streaks sprung as you state, how did she lay?

A. Quartering on the levee.

23rd int. Hanging on the levee?

A. It was three fourths of the way from the lower end to the injured end where this was. She hung on the levee when the water sunk.

24th int. When you examined her the second time to find the streaks sprung, the water had fallen had it not?

A. Yes, sir; and it was her bow or forward end that dropped. It did not show till the water had fallen considerably, 10 or 12 feet, I suppose from what it was when she sunk.

25th int. What became of the grain in the hull?

167 A. Well, I believe it all floated away mostly. I saw three or four sacks in her. They were digging under her and trying to haul her up, and all the rest, I think, floated away in the river. When I got there first I seen the barrels and sacks floating

down. The freight was all lost except about 25 barrels of high wines.

26th x-int. Was there not any remaining in the hull after she capsized?

A. There was five or six sacks, but it was rotten.

27th x-int. Will you say that is all?

A. That is all I seen except the high wines floating in the river.

28th x-int. I ask you now if there was not considerable grain in the hull after the Fisher capsized?

A. Indeed, I can't tell. It floated out. The current was very swift, from where she first turned upside down. There is always a swift current there in high water.

29th x-int. Where was she on the levee--right at your packet landing?

A. Yes, sir.

30th x-int. Below it?

A. Right on the ground.

31st x-int. Alongside the wharf-boat or not?

A. Outside the wharf-boat at first. As the water fell, we kept shoving the wharf-boat out.

32nd x-int. Then where was she?

A. We had to haul the wharf-boat out to keep it ahead.

33rd x-int. Where was the barge when you went to examine her?

A. On the levee.

34th x-int. Which side—inside or outside the wharf-boat?

A. Inside the wharf-boat.

168 35th x-int. How far from the wharf-boat?

A. When I first seen her?

36th x-int. When you examined her?

A. It is hard to tell. The break, I think, was 40 feet from the wharf-boat.

37th x-int. How far did the barge lie—the nearest part of the barge? it must have been near the wharf-boat?

A. The nearest part was under the water; I can't tell how close.

38th x-int. How far was the bow of the barge from the wharf-boat?

A. The upper end or aft end—which?

39th x-int. The bow?

A. They have two bows.

40th x-int. The forward end?

A. It must have been near the wharf-boat, and the aft end, I expect, was some 40 feet from the wharf-boat, 30 or 40, but as the water fell her stern got first.

41st x-int. Got on the flank?

A. Yes, sir; and we had to bring the wharf-boat ahead, and as the water fell along, we got it outside.

42nd x-int. Which was the end that remained in the water?

A. The forward end, and it is in the water yet.

43rd x-int. Might not the weight of the barge hanging as it did on the levee have sprung the streaks?

A. No, sir; it could not. It might possibly have sprung the streaks over the brink, but not 50 or 75 feet from there, it could not. I might state that I have some advantage of knowing about barges. I have for 6 or 7 years been engaged in boat and barge building, as foreman in the yard part of the time, and know a little about them.

169 44th x-int. Did you say that barge has two bows?

A. Yes, sir; that barge has two bows. She was called a "model barge."

45th x-int. How far from the top of the barge was it where the streaks or injury occurred?

A. It was between the first and second streak.

46th x-int. How many inches from the top?

A. Well, I suppose the upper wall streak is about 8 inches, and then the plank on top of that is about 10 inches from the deck, between 10 and 12 inches; I can't say to an inch.

47th x-int. How far from the upper end of the barge are these springing streaks?

A. You mean from the bow?

48th x-int. Yes.

A. Well, it was right where the barge gets her full width, where it commenced.

49th x-int. About midships?

A. No; about the first straight floor we call it.

50th x-int. Near the bow.

A. Yes, sir.

51st x-int. Which bow? the aft end or the end down stream.

A. You might say the starboard quarter of the aft end.

52nd x-int. How long a distance was that streak sprung?

A. I suppose some 10 or 12 feet. I did not notice particularly.

53rd x-int. Yet you went to examine particularly?

A. Well, I didn't notice how far along. It was big enough to let in, I suppose, three or four hogsheads of water in five minutes.

54th x-int. What was the length?

170 A. About ten or twelve feet. It may have been a little more or less. Three or four inches in the widest place, and run off each way to nothing. The plank slipped passed one another. It was no break or hole in the plank.

55th x-int. Could that springing of the streak be caused by a violent blow?

A. It could have been, otherwise it must have been a heavy weight against it—or else a violent blow—or a heavy steady pressure.

56th x-int. I ask if it could be produced by a very heavy blow?

A. Oh, yes, sir.

57th x-int. Could it also be produced by a pressure—a small pressure?

A. Yes, sir.

58th x-int. Could it be produced in any other way?

A. I don't think it could. I don't know of any other way it could be done.

59th x-int. Could it not have been done by hauling?

A. Well, it would depend where you took hold of it.

60th x-int. Well, if you took hold of it in a particular place, could it not?

A. It would be hard to take hold of it in the place that would cause that.

61st x-int. Was there any indentation in any of the side planks?

A. I did not notice any.

62nd x-int. Were the nails in the plank broken off or pulled out?

A. They were in under the barge, I could not see where they were.

63rd x-int. You couldn't say whether the nails were broken off or pulled out?

A. No, I cannot say; I don't recollect particularly. I did not notice that.

171 64th x-int. Was there any effort to haul that barge off?

A. Yes.

65th x-int. Who made it?

A. A man named Mahaffey.

66th x-int. Was that before or after you looked at it?

A. After.

67th x-int. What effect did that have on the barge?

A. Well, he cut a hole each side under the barge, so that they could take hold of it with chains.

68th x-int. What was the ultimate effect of his pulling?

A. They said he did not move her.

69th x-int. Did he pull any of the seams apart?

A. I don't know whether he did or not. I don't really think he did. I did not watch him.

70th x-int. You don't know whether he pulled the seams apart in pulling her?

A. No, I don't. I know I examined her before he attempted to pull her out.

71st x-int. Did you ever speak to any of the officers of that boat or the owners (the "Fisher") about this loss?

A. Well, I told Mr. Scudder, I understood the Fisher sunk her.

72nd x-int. What time was that?

A. I don't recollect. I heard Mr. Hancock telling him so.

73rd x-int. How long after the loss or sinking of the barge was it, you told Mr. Scudder you thought the Fisher sunk her?

A. I don't recollect.

74th x-int. About how long?

A. Well, it was within two weeks.

75th x-int. Did you see Mr. Scudder almost every day?

A. Not every day; twice a week, or some such matter.

172 76th x-int. Where is your office?

A. Between Elm and Myrtle, on the levee.

77th x-int. Did Mr. Scudder at that time come into your office almost every day?

A. No; about once or twice a week. The first time Mr. Scudder

came into the office after the Fisher sunk her, I heard Mr. Hancock tell him the Fisher done it.

78th x-int. The first time?

A. Yes, sir.

79th x-int. You are sure?

A. Yes, sir.

80th x-int. Was that the day the barge sank?

A. No, sir; it was subsequent to that.

81nd x-int. Was not Mr. Scudder in your office on the day of the sinking?

A. If he was, I did not see him.

81st x-int. Why do you say it was the first time he came into the office?

A. The first time I seen him in the office when Mr. Hancock was there. I don't know but he might have been in.

82nd x-int. He might or not have been there when you did not see him?

A. Yes, it is possible.

83rd x-int. Was Mr. Hancock there a good deal at your office?

A. Yes, sir; nearly every day.

84th x-int. Were you in all the time?

A. No, sir.

85th x-int. Out a good deal?

A. Out off and on.

86th x-int. What is your particular duty as secretary?

A. I attend to the bank business and the boats accounts.

87th x-int. Go down on the boats frequently?

A. About twice a day; to the bank once or twice a day.

88th x-int. A sort of general agent, are you? attending to the banking, insurance, soliciting, &c.

A. At that time I kept the books of the company, attended
173 to the banking business, &c., and the boats accounts. I had to run out doors sometimes to attend to business.

89th x-int. Did you sign the manifest?

A. No, sir.

90th x-int. Did you sign the protest?

A. No, sir.

Before signing the foregoing deposition I desire to correct my answer to the 3d direct interrogatory by inserting the word "forward" before the word "knuckle," so as to make it read the "forward knuckle;" also in my answer to the fifth direct interrogatory, I desire to say the streak was sprung a distance of ten or twelve feet instead of five or six feet.

(Signed) ANTHONY C. DUNLEVY.

The deposition of George Durgan, on behalf of the libellant, taken before Lillie L. Walbridge, esq., a notary public of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the twenty-second day of November, A. D. 1866.

George Durgan; 23 years of age; residence St. Louis; occupation steamboat clerk, deposeth and saith in answer to interrogatories and cross-interrogatories, as follows, viz:

1st int. Were you on the city of Pekin in April last when this accident occurred to the barge Annie?

A. Yes, sir.

2nd int. Where was that barge brought from?

A. Peoria.

174 3rd int. What cargo did she have aboard at the time she was lost?

A. There was 100 barrels of pork for Cole and Bros. This manifest (paper handed to witness and marked Exhibit A, and attached to the deposition of D. J. Hancock) shows just what was on the barge. It is a correct statement as here given. The household goods were taken off the barge before we got into port here. The cow was on the steamboat all the time.

4th int. Do you know anything of the value of the cargo?

A. No, sir; I would not be able to answer that question.

4th int. Where were you when the Fisher came into port at the time of the accident?

A. I was about getting ready to unload our boat, and I went on the levee preparatory to discharging the boat. I was on the levee.

5th int. Did you see the Fisher as she came in?

A. I did, sir.

6th int. Could you see the barge from where you were?

A. No, sir; I could not.

7th int. Can you tell how near the Fisher came to the barge?

A. Well, I saw the Fisher come in and stop, but I can't tell whether the Fisher had a coal flat between her and the barge or not.

8th int. Did you see her as she rounded out; the Fisher?

A. No, sir; I did not.

9th int. Did you see the barge after she sunk?

A. Yes, sir.

175 10th int. What became of the cargo that was on that boat?

A. Well, sir, I saw, I should judge, about 15 barrels of whiskey floating down the river, but I can't say; I judge 5 or 6 barrels was brought on the levee below the Maria Denning, between our boat and the next wharf-boat below us. That is all I saw or know of it.

11th int. What became of the balance of it?

A. I can't tell.

12th int. How long have you been running on the river as clerk?

A. Last season and this season, up to last Saturday noon.

13th int. What kind of a load did the barge have on her?

A. The barge was not overloaded; she was loaded down to what we call water-mark.

14th int. Would you call it a heavy, light, or medium size?

A. I call it medium size; a long ways from being overloaded. She could have taken a good deal more freight on.

15th int. You didn't see anything of the accident, only saw the boat after it was sunk?

A. Yes, sir; I saw the barge when she capsized.

16th int. I think you stated you were on shore when the Fisher came in?

A. I did, sir.

17th int. You didn't see anything that passed between Mr. Hancock and the captain of the Fisher?

A. No, sir.

Cross-examination.

By the respondent:

1st x-int. You state you were 2nd clerk on the City of Pekin last April?

A. Yes, sir.

2nd x-int. In whose employ were you?

A. Mr. Hancock.

176 3rd x-int. He employed you for the Illinois River Packet Company?

A. He did.

4th x-int. Then you were in the employ of the Illinois River Packet Co?

A. I was, sir.

5th x-int. You could not see the barge when the Fisher came in, from the shore where you were?

A. No, sir.

6th x-int. You say you saw her sink or capsize, I think you said—how did you come to see her capsize?

A. There was a cry of "barge sinking," and "help." My curiosity was excited and I went to see what was up.

7th x-int. Was it before your boat landed or after?

A. My boat had just got her head into the landing, perhaps got a line out and fastened to the wharf-boat.

8th x-int. Immediately after you landed then?

A. Yes, sir.

9th x-int. How did she capsize; on which side?

A. She turned outside down.

10th x-int. Outside from the Belle of Pike?

A. Yes, sir.

11th x-int. When you first saw her was she filling?

A. When I first saw her she was sinking.

12th x-int. When you first saw her was she partially or entirely filled up with water?

A. I judge the hold of the barge must have been full of water.

13th x-int. When you first saw her, I want to know whether she was partially or entirely full of water?

A. I cant tell, because I could not see.

14th x-int. How much could you see?

A. I could see the whole face of the barge, the top of the barge.

15th x-int. Through the water; the water was over her
177 was it not?

A. No, sir; I did not see any water on the barge when I first put eyes on her.

16th x-int. What stage of sinking was she in when you first saw her?

A. Do you mean the position she was in.

17th x-int. Yes, what position did she lie?

A. She lay alongside the Belle of Pike.

18th x-int. How? capsized out or over from the Belle of Pike?

A. Lying alongside the Belle of Pike; careened over.

19th x-int. How far careened over when you saw her; half way or one-third?

A. Her guards were just about to the edge of the water when I first put eyes on her.

20th x-int. Which guards?

A. The outside guards.

21st x-int. How long after you first put your eyes on her before she was entirely capsized over?

A. It could not have been more than three minutes.

22nd x-int. Did she careen over right where she lay, entirely?

A. Yes, sir.

23rd x-int. She went clean over?

A. Yes, sir.

24th x-int. Capsized over and then went under?

A. Yes, sir.

25th x-int. When you first saw her she was lying against the Belle of Pike, was she?

A. Yes, sir.

26th x-int. Where were her guards laying at that time? Were they out of water?

A. The inside guard was full 16 inches out of water.

27th x-int. The guard next the Belle of Pike?

A. Yes, sir, and the outside guards, as I stated before were
178 just in the edge of the water.

28th x-int. How did she lay as to the Belle of Pike? Was she laying against the fenders of the Belle of Pike, or against the wheel when you first saw her?

A. I can't tell, because I did not take notice.

29th x-int. How far was the bow of this barge when you first saw her from the Belle of Pike?

A. She was lying broadside to the Belle of Pike.

30th x-int. Can you tell how far from the extreme portion of the bow of the Belle of Pike; how many feet?

A. 9 or 10 feet.

31st x-int. Did you see any of the freight on her when she was capsizing?

A. I saw the surface of it. I could see the pork and whiskey.

32nd x-int. What effect did the capsizing have on the barrels of whiskey for instance?

A. They just went over with it into the water.

33rd x-int. Did they capsize before the barge or at the same time?

A. After the barge went over they lost what you may call the centre of gravity, and over they went.

34th int. They went outside?

A. They fell with it; yes, sir.

35th x-int. On what part of the Belle of Pike was this barge? on the after or forward part of the boat?

A. She laid just about amidships of the Belle of Pike; her bow was just about amidships; a little ahead of midships of the Belle of Pike.

36th x-int. Did the bow of the Annie come ahead of the after part of the boilers?

179 A. Yes; just about came to the after part of the boilers.

37th x-int. You said that this manifest contained a correct statement of the freight aboard the barge?

A. Yes, sir.

38th x-int. I will ask if these are the names of the consignees of the freight, marked on the edge of it?

A. Yes, sir.

39th x-int. Is that a consignee there?

A. That is a re-shipment, consigned to the Illinois River Packet Co.; we generally put in the manifests the re-shipments that way; what is marked re-shipment in the margin of the exhibit belonged to the Illinois River Packet Co.

40th x-int. The balance belonged to the other consignees, I suppose?

A. Yes.

41st x-int. Here is one article of goods marked, "A lot of goods for the owner on board—a cow?"

A. That was taken on board the boat after I made out the manifest.

42nd x-int. Was she on the boat that went down?

A. No, sir. The cow was not on the barge at all; she was on the boat.

43rd xint. Do you know the tonnage of that barge?

A. No, sir; I do not.

44th x-int. I think you said she was loaded a medium way; did you?

A. Yes, sir; a medium load. I do not mean she had on a light load, but not overloaded.

45th x-int. Could she have carried safely any larger load?

A. Yes, sir; she has many a time carried a larger load than
180 that.

46th x-int. Could she at this time?

A. Yes, sir.

47th int. How long were you coming from Peoria down on that trip?

A. I don't remember; I can't tell whether it was that trip or another. I was thinking of that a few minutes ago; whether it was at midnight or sunrise that we left Peoria I can't tell. I judge it was about 30 hours—about a day and a half.

48th x-int. In whose employ are you now?

A. I am doing nothing now; not in any one's employ.

49th x-int. When were you first spoken to about testifying in this case?

A. To-day.

50th x-int. Who spoke to you?

A. Mr. Hancock.

51st x-int. Did he request you to come here?

A. He told me to be here at 2 o'clock.

52nd x-int. Is Mr. Hancock one of the members of the Illinois River Packet Co.?

A. Yes, sir, as far as I know.

53rd x-int. Do you know who the other principal members are?

A. Only one; Mr. Walker of Peoria.

54th x-int. What boat were you on last?

A. The Illinois.

55th x-int. You were on her up to last Saturday?

A. We came in last Saturday, and I was on her up to that time.

56th x-int. Who does that boat belong to?

A. The Illinois River Packet Co.

Direct examination resumed.

By the libellant.

18th int. When you speak of the guards of the barge, what do you mean?

A. The edge of the barge—the running boards. The edge
181 of the barge and deck we call the guards.

19th int. Do you know what became of the barge, after sinking?

A. After she sunk, she swung beneath the Belle of Pike, and partly under the city of Pekin.

20th int. Where did she finally lodge?

A. Underneath the wharf-boat, resting on shore.

21st int. How long did she remain there?

A. Part of her is there now. She remained there till she was torn to pieces.

Stephen Conley.

The deposition of Stephen Conley, on behalf of the libellant, taken before Edmund T. Allen, esq., a notary public of St. Louis county, Missouri, at the city of St. Louis in said eastern district, on the first day of December, A. D. 1866.

Stephen Conley, a resident of St. Louis; 45 years of age; steamboatsman, on oath deposeth and saith in answer to interrogatories and cross-interrogatories, as follows, viz:

1st int. What business were you engaged in in April last?

A. I was on the City of Pekin, working on her; a laboring man.
2nd int. Were you present when the barge Anna was landed?
A. Yes, sir.
3rd int. Were you watchman on her?
A. Yes, sir.
4th int. Did you see her when she sunk?
A. Yes, sir.
5th int. Did you see the steamboat Fisher come in?
A. Yes, sir.
6th int. How did the Fisher come in?
A. She came up the river, sir, and coming broadside on,
182 hit her on the stern.
7th int. Hit the barge?
A. Yes, sir.
8th int. On the stern?
A. Yes, sir; shoved the freight in.
9th int. Shoved what in?
A. The freight that was on the barge, and shoved the barge in agin that Pike.
10th int. Did you see her when she backed out, the Fisher?
A. Yes, sir.
11th int. How near did the Fisher come to the barge, when she rounded out?
A. She went ahead, sir, after striking her.
12nd int. Did she strike her as she rounded out?
A. Yes, sir.
13th int. What part of the barge did the Fisher strike, as she rounded out?
A. Way back on the stern.
14th int. Were you on the barge at that time?
A. Yes, sir.
15th int. Was Mr. Hancock on the barge, when the Fisher came in?
A. I can't tell whether he was on the barge or not.
16th int. Was he on the barge when the Fisher rounded out?
A. I don't know, sir.
17th int. When did you first discover that the barge was sinking; how long after the Fisher went out?
A. About 20 minutes.
18th int. What were the first indications that you saw of her going down, sinking?
A. I saw the muddy water coming up.
19th int. Whereabouts was that muddy water?
A. Aft in her stern, sir.
20th int. How did you see it?
A. I looked down there, because I was watching there.
183 21st int. What do you mean by, down there?
A. Through, down the pump-hole, where there was a pump-hole to put a pump down, if she was leaking?
22nd int. How long after you saw this muddy water in the barge, before she commenced going down?

A. There wasn't more than 5 or 8 minutes; as soon as I took notice, until she sunk.

23rd int. When you saw this muddy water coming in, did you give the alarm?

A. Yes. I ran across the Pike, and gave the alarm.

24th int. To whom?

A. The mate.

25th int. Mate of what boat?

A. The mate of the City of Pekin.

26th int. What did you then do?

A. Came over again as quickly as I could.

27th int. On to the barge?

A. Yes, sir.

28th int. When you got back on to the barge, had the water commenced running over her side yet?

A. No, sir.

29th int. How long after you got back to the barge before the water commenced running over her side?

A. Not much over 4 minutes.

30th int. When you returned from the City of Pekin on the barge the last time, was the barge still going down?

A. Yes, sir.

31st int. Did it continue to sink in that way until the water commenced running over the sides?

A. Yes.

32nd int. How was that barge fastened in the first instance, the barge Anna?

A. To the Belle of Pike.

184 33rd int. Was there any other barge in front of the Belle of Pike?

A. No, sir.

34th int. Don't you know anything of the barge Julia?

A. No, sir.

35th int. Did you have any hand in fastening the barge Anna yourself?

A. I was on board of her.

36th int. You were not one of the hands that actually did the fastening?

A. No, sir.

Cross-examination.

By the respondent:

1st x-int. What did you say your name was?

A. Stephen Conley.

2nd x-int. What were you doing on board the City of Pekin; what particular duty; what was your occupation?

A. Carrying corn, rolling pork, carrying wood, carrying coal; everything that was to be done on board of her.

3rd x-int. What were you called, a roust-about?

A. Yes, sir.

4th x-int. Were you on the barge when she was coming down?

A. Yes.

5th x-int. All the time?

A. No; I couldn't be on her all the time.

6th x-int. How often were you on her whilst she was coming down?

A. I couldn't tell that; sometimes the boat landed, and all hands would be on her.

7th x-int. Were you on her every time the boat landed?

A. I was on the boat.

8th x-int. Did you go on to the barge every time she landed?

A. No, sir; I did not.

9th x-int. Were you on the barge when she was landed beside the Belle of Pike?

185 A. Yes, sir.

10th x-int. You were on her?

A. Yes, sir.

11th x-int. How long did you remain on her?

A. I remained on her until she sunk.

12th x-int. Did you not see Mr. Hancock on her?

A. Yes, sir; I saw him on the barge.

13th x-int. Was he on her all the time, from the time she landed until she sunk?

A. No, sir.

14th x-int. How did you say the barge Anna was fastened?

A. Fastened to the Belle of Pike.

15th x-int. By what?

A. By a line.

16th x-int. How—at her bow, her forward bow?

A. Yes; sir.

17th x-int. How near was the bow of the barge to the Belle of Pike when she was fastened?

A. She was a good ways back from her bow.

18th x-int. How far was it from the bow of the barge to the Belle of Pike?

A. She was laying up against her.

19th x-int. How many feet was it between the bow of the barge and the Belle of Pike?

A. The barge was alongside of the Belle of Pike.

20th x-int. About how far from the bow of the barge to the Belle of Pike--how many feet?

A. They were both stuck together, laying alongside.

21st x-int. From the extreme point of the bow of the barge, how far was that from the boat Belle of Pike—how many feet?

A. I couldn't tell how many feet.

186 22nd x-int. About how long was the rope from the bow where it was fastened to the Belle of Pike?

A. I don't know, sir.

23rd x-int. Can't you tell how many feet it was from the extreme bow of the barge to the Belle of Pike?

A. No, sir.

24th x-int. What was the length of the rope?

A. I don't know, sir.

25th x-int. Aae you sure that the barge was fastened to the Belle of Pike?

A. Yes, sir.

26th x-int. To what part of the Belle of Pike was she fastened?

A. She was fastened to the cavil, forward of the derrick.

27th x-int. Was she well fastened?

A. Yes, sir.

28th x-int. Did you assist in fastening her?

A. No, sir.

29th x-int. Who did fasten her?

A. I couldn't tell.

30th x-int. About where, on the Belle of Pike, did the stern of this barge come?

A. She came off of the wheelhouse. You could get in through the wheelhouse, on the stern of the barge.

31st x.int. When you got on to the barge, from where did you get on, from what boat?

A. Off of the Pike.

32nd x-int. Whereabouts?

A. I went through the wheelhouse.

33rd x-int. How far from the stern of the barge was it that you stepped on to the barge?

A. I stepped on the stern of the barge.

34th x-int. On the stern?

A. Yes, sir.

35th x-int. In whose employ are you now?

A. Nobody's, sir; I am on my own hook like, now.

36th x-int. In whose employ were you at that time?

187 A. When I was on the barge?

37th x-int. Yes.

A. Well, that mate hired me to work on that boat—Warren.

38th x-int. On what boat?

A. On the City of Pekin.

39th x-int. When were you first spoken to to testify in this case?

A. After the barge sinking.

40th x-int. I ask you when you were first spoken to about giving your evidence in this case?

A. When I was first spoken to?

41st x-int. I ask you when you were first spoken to about giving your evidence in this case?

A. First, when the barge sunk, was it?

42nd x-int. When did Mr. Hancock first speak to you about this barge?

A. The day she sunk.

43rd x-int. Did Mr. Hancock speak to you about testifying in this case?

A. I don't understand.
44th x-int. Do you know what evidence is?
A. No, sir.
45th x-int. Do you know what testimony is?
A. No.
46th x-int. Do you know what a case means?
A. No, sir.
47th x-int. Do you know Mr. Hancock?
A. Yes, sir; I know him by eye-sight.
48th x-int. Do you know to whom that barge belonged?
A. No, sir.
49th x-int. Why did you come up here to-day?
A. Why did I come up here? he brought me up here.
50th x-int. Who brought you?
A. Mr. Hancock.
51st x-int. When did he first speak to you about coming up here?
A. Last Wednesday or Tuesday, I don't know which.
52nd x-int. What did he say to you?
188 A. He told me that he wanted me up here about that barge.
53rd x-int. Was that all he said to you?
A. Yes.
54th x-int. Where was it that he spoke to you?
A. Way up on the Olive Branch.
55th x-int. What were you doing on the Olive Branch?
A. Working on her.
56th x-int. What were you doing?
A. Working with sugar, putting suger out of the hold.
57th x-int. I thought you said you were not employed?
A. I am not employed to-day; I was that day.
58th x-int. What have you been doing since that day?
A. I have been doing nothing to-day or yesterday.
59th x-int. What were you doing the day before?
A. Was working on the "Branch."
60th x-int. Where do you live now?
A. I live down on Mulberry street.
61st x-int. How long have you lived in St. Louis?
A. About 10 or 12 years.
62nd x-int. Are you a married man?
A. Yes, sir.
63rd x-int. Where did you live before you came to St. Louis?
A. I lived in Ireland, sir.

his
STEPHEN + CONLEY.
mark.

Witness to signature:
EDMUND T. ALLEN.

Henry Adkins.

The deposition of Henry Adkins, on behalf of the libellant, taken before Lillie L. Walbridge, esq., a notary public of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the twenty-seventh day of November, A. D. 1866.

189 Henry Adkins, 43 years of age; residence, St. Louis: occupation, inspector of board of underwriter, deposeth and saith in answer to interrogatories and cross-interrogatories, as follows, viz:

1st int. How long have you held the office of inspector of the board of underwriters?

A. Two years and-a-half.

2nd int. What is your general business, as inspector of the board?

A. To see that the boats are kept in proper order, and to make surveys of new boats, and to superintend repairs of boats on the docks.

3rd int. You understand the business of boat-building?

A. Yes, sir.

4th int. How long have you been engaged in the business of boat-building?

A. 23 years.

5th int. You profess to understand that business?

A. Yes, sir.

6th int. Is that your certificate of inspection?

A. Yes, sir; that is my certificate, (certificate of inspection attached to this deposition, and marked Exhibit "A.")

7th int. Do you recollect of hearing of the sinking of the barge Annie, in the spring of 1866?

A. Yes, sir.

8th int. Did you good down to make an examination of the barge, after she was sunk?

A. Yes, sir.

9th int. By whose direction?

A. At the request of some of the underwriters here.

10th int. How long after she sunk was it?

A. I think it was the next day.

190 11th int. Did you examine the hull of the barge?

A. As much of it as was above water at that time.

12th int. What position did the barge occupy, at that time, at the wharf?

A. She was lying outside the wharf-boat, along fore and aft, up and down the river, right alongside the wharf-boat.

13th int. What condition did you find her knuckle-seams in at the time you made examination?

A. At the time I made the examination the barge was lying bottom side up, and there was about 20 to 25 feet of knuckle out, so I could see it; and from the appearance of her knuckle-seam, it appeared to me that the side had been shoved in, so as to open the knuckle-seam. Twenty five feet of the knuckle-seam was out, so I could see. The balance was under water. The knuckle-seam

appeared like her side had been shoved in, so as to open her knuckle-seam.

14th int. What, in your opinion, would have caused the shoving in of the side?

A. Something coming against the top of the side of the barge, so as to crowd it in.

15th int. Would it, in your opinion, have required a heavy or light blow to produce that shoving in of the side?

A. It would have required, I think, a heavy blow.

16th int. Might the same damage have been accomplished by a heavy pressure?

A. Yes, sir.

17th int. Could you determine from this injury that you
191 speak of to the barge, whether the opening was sufficient to let in water to the hull of the barge?

A. I should judge from the way the seam was open that it must have leaked; to what extent I can't say.

Cross-examination.

By the respondent:

1st x-int, You would have judged from the way the seam was opened that it must have leaked?

A. Yes, sir.

2nd x-int. Where was the breach or seam opened in the barge?

A. It was what was called a knuckle-seam.

3rd x-int. Where was that?

A. Well, it is right on the bottom. All these barges are flat. There are two seams on the corner, as they turn the corner to come up on the straight sides; there is two seams on the corner called the upper and lower knuckle seams. There is one plank right on the corner and the seam on each edge of that plank is called the knuckle-seam.

4th x-int. Now, was it the upper or lower knuckle-seam?

A. It was the lower knuckle-seam that I saw. The lower and upper, both in fact; both the seams were open, but the lower one appeared to be more so than the upper one.

5th x-int. Could you see 25 feet of the hull of the barge under water?

A. About 25 feet of it, as near as I recollect, was out of water at that time.

6th x-int. On which side of the barge was the opening?

A. It was on the side next to the shore, next to the wharf-boat. There is no bow nor stern to this barge, and you cannot designate it by larboard and starboard.

7th x-int. She was turned bottom up, was she, when you
192 saw her?

A. Yes, sir.

8th x-int. Now, was it amidships or near the end?

A. Near the end.

9th x-int. How far from the end did it run?

A. Just after the middle, abaft of where she commenced to make the model.

10th x-int. What was the width of this opening or seam?

A. It looked on the outside—appeared to be three quarters of an inch open.

11th x-int. Clear open?

A. The opening seam appeared to be three quarters of an inch large on the outside.

12th x-int. Could you see clear through or into it?

A. I could see alongside the oakum; I could see into the seam.

13th x-int. And it was about three-fourths of an inch open?

A. That is, the seam on the outside was about three-fourths of an inch. The size of the seam on the outside—the opening between the oakum and the edge of the plank, I suppose, was about between one-eight and a quarter of an inch.

14th x-int. Do you remember what day this was?

A. I don't; but I think it was about the first of May, as near as I recollect; the very last day of April or first of May.

15th x-int. Was that all the defect you noticed in the barge—the breach?

A. All I could see.

16th x-int. Did you notice any place where apparently the
193 pressure had come harder on one place than another?

A. No, sir; I couldn't see anything; only this portion of the bottom was out of water, and where the pressure, I suppose, did come against the side of the barge, was under water.

17th x-int. What was the depth of this barge?

A. Four feet and a half, I think.

18th x-int. Do you remember its length?

A. About 150 feet long.

19th x-int. Do you know anything about her tonnage?

A. No, sir, I do not; she turned in the neighborhood of 100; about 100 or 125.

20th x-int. You saw no fracture then on the hull of the barge at all?

A. No, sir.

21st x-int. No indications where she had been struck?

A. No, sir; that part I couldn't see; that part was under water.

22nd x-int. How near was this open seam laying to the top of the water?

A. The seam was just about out of the water; some places six inches out, and some places just at the edge of the water.

23rd x-int. Well, was it an opening in the hull or were the timbers pressed passed the outside of each other—was it in the act of opening up, or barely pressed up—the one pressed in and the other out?

A. No; they were crowded in such a manner as to open the seam on the corner.

24th x-int. Then from what you saw the top of the barge appeared to be crowded in?

A. Yes; so as to open a seam on the corner.

25th x-int. Was it a breaking over? Did it appear to be a
194 breaking over the side of the barge or an opening up?

A. No; it appeared to be like the sides were crowded in. What was out of shape on the barge, apparently, were under water, to me. The part of the barge out of water—the bottom part—appeared to be in good shape; but it appeared that the part (when the barge was right side up that would be above water,) was the part that was crowded in—the side of the barge.

26th x-int. Are you certain that it was the side of the barge that was crowded in, and not the bottom that was crowded up?

A. I say that it had that appearance; the seam had that appearance—that the side was crowded in. The bottom, at the time I looked at it, was in its proper shape.

27th x-int. If I understand, the position you put this barge in you could not see the side at all?

A. I only judge from the appearance of the seam.

28th x-int. But you could not see the side?

A. No, sir; it was under water.

29th x-int. This broken seam was just barely at the top of the water?

A. Yes, sir.

30th x-int. What was the thickness of the side of the barge?

A. They were two and-a-half and two inch—the planks were.

31st x-int. Did you notice the sides of the barge, the ribs or timbers inside?

A. I could not see the timbers inside.

32nd x-int. You inspected her?

195 A. Yes; I thought you spoke of the time I made the examination. I saw them before.

33rd x-int. What character were they, light or heavy?

A. They were good size for that size barge.

34th x int. Do you know how old she was?

A. I don't know exactly, she was not old, not more than a year old.

35th x-int. Could you see the whole length of the opening of this seam?

A. Oh, no, sir; the water was over her so I couldn't see it, only about 25 feet of the boat I saw.

36th x-int. How near was this 25 feet, or how near was the sunken end of the barge to the wharf-boat?

A. So close I could step off the wharf-boat on the bottom of the barge.

37th x-int. Now, where was the end of this sunken barge, with reference to the upper or middle gangway of the wharf-boat? About how high up was it on the wharf-boat? was it below the wharf-boat or below the middle gangway or upper gangway?

A. It was below the top of the wharf-boat.

38th x-int. I mean to ask where was it on the wharf-boat? where did you step off the wharf-boat onto it? above the middle gangway or upper gangway?

A. It was below the middle gangway.

39th x-int. How far below?

A. Well, it was somewhere between there and the end; I can't tell exactly where.

40th x-int. Did you go down the upper or middle gangway when you went down and walked on to it?

A. I don't recollect that.

196 41st x-int. Did you see the Belle of Pike there?

A. I don't think any boat was lying at the wharf-boat when I was there.

42nd x-int. Was she not lying under the Belle of Pike?

A. I don't know.

43rd x-int. She had been?

A. I don't know.

44th x-int. You did not see her when she lay under the Belle of Pike?

A. No, sir; she was not under the Belle of Pike at that time.

45th x-int. You did not see her when she was at any time?

A. The next day I went there and she was lying under the Belle of Pike, but not at that time.

46th x-int. You say she was under the Belle of Pike the next day?

A. I think it was the next day I was on board the wharf-boat, and the Belle of Pike was lying there, and she was apparently under th Belle of Pike.

47th x-int. Could this opening in the seams be caused otherwise than by a heavy pressure?

A. I don't know how it could be. It must have been a heavy pressure on the side to have opened that seam.

48th x-int. Is there no other way it could have been opened?

A. I don't know of any other way. She might have run over something and shoved her bottom up, broken her timbers, and shoved her out of shape.

49th x-int. You say the bottom was perfectly straight?

A. Yes, sir.

50th x-int. You saw no indications of any trouble on the

197 bottom?

A. No, sir; every thing was in proper shape there.

51st x-int. Might it not have been pressed up or down, as it were, and the same appearance be there, or the same opening be there, if the bottom had been pressed down?

A. Yes, sir; but had the bottom been pressed down there it would have remained out of shape, in order to have left that seam open.

52nd x-int. You speak of the upper and lower seam; now which was it, the upper or lower seam, or both?

A. Both; the lower seam appeared to be worse than the upper, as far as I could see.

53rd x-int. That was caused by the side being pressed out?

By the side being pressed in.

54th x-int. How much was it pressed in?

A. I can't tell you.

55th x-int. You could see over the side, couldn't you?

A. I could not see the side; no, sir. I only judged the side was pressed in from the effects on the knuckle seam; I judged the side was crowded in. That is my opinion. I did not see it.

56th x-int. You are not willing to swear the side was crowded in?

A. No, sir.

57th x-int. Then, the opening you saw there was caused by the side being crowded in?

A. That was my impression at the time.

58th x-int. Was it still crowded in when you saw it?

A. The seam was opened, and I judged from the seam being opened that the side had been crowded in, which caused the same to be opened.

198 59th x-int. Were the two edges of the opening planks joining each other? Were they level or even, or was one out and the other —?

A. No, sir; they were even, only that they were open.

60th x-int. Just open?

A. Yes, sir; they did not have any appearance of being crowded up or down to get them out of shape.

61st x-int. Would it have the same effect if the barge lay against anything when this pressure came on the other side? The pressure coming on the barge on one side, lying against a vessel, would not that have had the same effect?

A. It is altogether in how she lay against anything on the opposite side. If she lay fair against anything on the opposite, so as to get more bearing on the side she lay against than she did on the other side where she received the "lick," it would not be likely to effect this side so much as on the side she got the "lick;" but was there less bearing on this side than on the side she got the "lick" on, (or the way she got it, she may have got it all along the side or in one place,) but if the bearing was less on the opposite side, it would be apt to injure this side as bad as the opposite side.

62nd x-int. Now, when that barge would be righted up, which side was it then you saw the seams open up?

A. On the outside.

63rd x-int. The larboard you call it?

A. On the starboard, calling of the river her bow, of course.

199 64th x-int. That is, when she was righted up; then the injury or open seam would be on the larboard side?

A. On the starboard side.

65th x-int. What effect would the overloading of that barge have upon it? Could not the overloading of that barge have produced that opening of the seam?

A. No, sir; she might have been badly loaded, but not overloaded.

66th x-int. Badly stored or overloaded; could not that have produced the opening?

A. Yes, sir.

67th x-int. And suppose that barge to be freighted with in the neighborhood of 300 tons of freight, and she should capsize in the current there, could the opening of that seam have occurred in that way? Suppose the barge Annie to have laid out in the current at the stern of the Belle of Pike, against the wheel of the Belle of Pike, and by the action of the current she should be overturned, with in the neighborhood of 300 tons of freight in her, would it not likely have produced that same breach or opening of the seams?

A. Undoubtedly there would be great pressure on that side—the side against the wheel—as she turned over.

68th x-int. Now, would it be likely to produce just the breach in the side knuckle-seam that you saw?

A. Likely to be that way. Yes, sir; the current is very swift out there.

69th x-int. Do you know the length of the Belle of Pike?

A. 200 feet long.

70th x-int. What is the character of the current 210 feet
200 out?

A. Her bow would not be that far out from the wharf-boat.

71st x-int. Say 200 feet?

A. She would not lay that far. If she had laid as she generally does, she would not lay but 150 feet from the wharf-boat.

72nd x-int. Well, say 150 feet out, what is the character of the current?

A. There is a pretty good current out there.

73rd x-int. Is it not very strong during high water?

A. During high water it is a pretty strong current.

74th x-int. Did you see this barge when she first came in?

A. No, sir.

75th x-int. You say, then, if the barge lay against the wheel of the Belle of Pike, or against the wheel of a steamboat, and should from any cause overturn in that current, that it would be likely to produce this same effect of opening the seams?

A. It might have produced an opening in the knuckle-seam, but it would have been in the opposite side from where this was.

76th x-int. But it might have been both of them?

A. No, sir; the pressure would all come on one side then.

77th x-int. Which side would the pressure come?

A. On the side next to the wheel.

78th x-int. That is, the pressure would come on the part of the barge in contact with the wheel?

A. Yes, sir.

79th x-int. Do you know if this barge and cargo was insured?

A. No, sir; I cannot tell that.

80th x-int. You don't know where it was insured, if insured?

A. No, sir.

201 81st x-int. What is the tonnage allowed per pound? How many pounds allowed to a tun, custom-house measurement?

A. It is not calculated in that way.

82nd x-int. How then?

A. Custom-house measurement is calculated now by the square foot. I think there is 100 square feet calculated in a tun; I am not positive, though.

83rd x-int. Well, who was it that requested you to look at the barge? What officer of the board of underwriters?

A. Some of the underwriters that had some insurance on the freight?

84th x-int. Do you remember which one, or who?

A. Mr. Ridgely, of the Union.

85th x-int. Was the water then high or low?

A. Well, the water was at a fair stage at that time; in what we consider a good stage of water.

86th x-int. You did not see this barge you say before she sunk?

A. No, sir; not that day.

Direct examination resumed.

By the libellant:

18th int. I think you stated in answer to one of Mr. Rankin's questions, that if the injury you saw had been produced by the sinking of the boat and its pressure against the wheel of the Belle of Pike, by the operation of the current, that the injury would have been on the opposite side of the barge to where it was?

A. Yes.

19th int. That would be because the pressure would be from the wheel of the boat?

A. Yes, sir.

20th int. In this matter of custom-house measurement, is it not a fact that boats and barges largely overrun the custom-
202 house measurement?

A. Yes, sir; very largely; barges more than boats, because they have no upper works or machinery.

21st int. What was the value of that barge, in your opinion?

A. It was worth about $4,500.

By the respondent:

87th x-int. You say they overrun? How much do they overrun?

A. Well, a barge will carry more than double her measurement.

88th x-int. That would load her down pretty heavily, would it not? Would you say, as a judge of navigation in these waters, that it is prudent to load a barge with anything like double measurement?

A. Yes, sir: a barge will carry more than double her custom-house measurement.*

(Signed) HENRY ADKINS.

(*See below for Exhibit A, referred to in foregoing deposition.)

Thomas Denby.

The deposition of Thomas Denby, on behalf of the libellant, taken before Edmund T. Allen, esq., a notary public of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the first day of December, A. D. 1866.

Thomas Denby, a resident of St. Louis, 40 years of age, steamboat man, on oath deposeth and saith, in answer to interrogatories and cross-interrogatories, as follows, viz :

1st int. State what was your occupation in April last and the forepart of May.

A. I was second mate on the City of Pekin.

2nd int. State if you loaded a barge at Peoria in the latter part of April.

A. Yes.

203 "*Exhibit A*," *referred to in foregoing deposition of Henry Adkins.*

PORT OF ST. LOUIS,
Nov'r 30th, 1865.

I, the undersigned, Henry Adkins, have examined the barge Anna, and find her to be in good running condition, and fit to be employed for six months in the transportation of freight, and to be used in tow by steamboats in the Upper Missouri and Illinois rivers, subject, however, to re-inspection at any time.

Given under my hand the day and year above written.

HENRY ADKINS,
Inspector for Board of Underwriters for St Louis.

Fees, $5 00.

[5-cts. U. S. rev. stamp.]

Insurance will not cover on any steamboat, barge, or canal boat condemned (or reputed unseaworthy until repaired) by the hull inspector of this board, or upon any barge or canal boat, without his certificate of inspection.

Office of the inspector, No. 4 Pine street.

204

205 3rd int. What was the name of that barge?

A. Anna.

4th int. What time did you arrive here with the barge?

A. I don't know what the day of the month was; I can't tell you that.

5th int. What boat towed that barge down?

A. We brought the barge down.

6th int. What boat?

A. The City of Pekin.

7th int. What was the condition of that barge, and how was she loaded?

A. The condition of the barge was good when we loaded her, and all the way down. She wasn't loaded deep. I suppose she had from fifteen to eighteen inches side.

8th int. What do you mean by "side?"

A. From the top of her side down to the water; that is, in the middle of her. Each end would be a great deal more; that would be two feet.

9th int. Did that barge require pumping on the way down?

A. No, sir; we didn't pump any.

10th int. Where did you land that barge?

A. Down here, along aside of the Belle of Pike.

11th int. Do you recollect where that barge was tied, or how it was tied?

A. It was made fast by the headline alongside of the Pike. We couldn't get her in underneath; we didn't have room to get in both the barge and the boat at the time.

12th int. What position did you leave her in?

A. She didn't lay straight with the current; a little quartering; nothing to hurt her as she lay.

13th int. When you made the barge fast there, then what did you do?

A. Went to the wharf-boat with the boat.

206 14th int. What other boat was laying below you?

A. The Maria Denning was laying underneath us.

15th int. Did you send a watchman to take charge of that barge? (Objected to by respondent.)

A. Yes.

16th int. What did you do in regard to the barge?

A. I sent a man over there to watch her while I was discharging the boat.

17th int. Which gangway of the wharf-boat of the Illinois River Packet Company did you discharge at that day?

A. The after gangway.

18th inst. Did you see the Fisher land against the barge?

A. No, I didn't see her land; I saw her after she had landed.

19th int. When you saw her, was she laying right up against the barge?

A. Yes.

20th int. State her position.

A. She was laying right alongside the barge.

21st int. Did you notice whether her guards overrode the barge and pushed the freight in or not?

A. No, sir; I couldn't see.

22nd int. How long after the Fisher landed against her was the alarm given of the barge sinking?

A. I couldn't tell; it might be 15 minutes, or it might be 20 minutes from the time.

23rd int. How did you get your information that the barge was sinking?

A. The man I sent over there came over and told me he believed the barge was going to sink.

(Answer objected to by respondent.)

24th int. What did you do?

A. I run right over the Belle of Pike, and got on board the barge, and went right across, and I saw she was settling down; the
207 upper side of her. I run back to the man that was discharging the boat, to tell him to bring all his men over to try to get the freight out of her. I went right back again; and when I got back again and stepped on the barge, I went across her to the upper side again, and I saw the water coming up through the sacks, and all I could do was to get to the other end of her and get off her before she turned over.

25th int. Where was it you first saw the water coming into the barge, and how was it coming in?

A. The first I saw the water was in the after quarter of her, the quarter standing furthest out in the river—the upper quarter. I saw the water spurting up from betwixt the sacks. We had a pump hole right down there. I looked down it in the first place, and I saw the water coming up—the muddy water.

26th int. State what became of the barge.

A. The current took her on the upper side of the running board, and turned her over.

27th int. After the barge turned over, then what became of her?

A. She went over, and then she lay by the Belle of Pike for a few seconds, while, I suppose, all of the freight dropped out of her; then she went underneath the Belle of Pike.

28th int. And where did she come up?

A. She came up under the City of Pekin. Her stern caught underneath the bow of the City of Pekin; the other end of her was underneath the guards of the Belle of Pike.

29th int. Whereabouts, then, was the upper end of the barge?

208 A. The upper end of the barge would be somewhere abreast of the midship gangway of the wharf-boat.

30th int. When the boat was ready to go out that day, (the City of Pekin,) what position was the barge in then?

A. Her stern was right underneath the City of Pekin's bow.

32st int. Do you know the age of the barge.

A. No, sir.

32nd int. Do you recollect what day it was you came in here?

A. No, sir; I do not. I think it was either a Monday or a Tuesday. I believe it was a Monday.

33rd int. What was the barge loaded with?

A. Corn, pork, barrels of pork, barrels of whiskey; there might be some oats.

Direct examination.

By the respondent:

1st x-int. Did you say you were 2nd mate on the City of Pekin?

A. Yes, sir.

2nd x-int. Who was the first mate on that boat?

A. John Warner.

3rd x-int. Were you on the barge coming down?

A. On the barge Anna? Yes, sir; several times.

4th x-int. Who was the regular watchman on board the barge, or was there any?

A. The watchman of the boat attends to the barge at night times.

5th x-int. Was there any other watchman except the regular watchman on board the boat.

A. No other regular watchman.

6th x-int. Did you help to land the barge?

A. Yes, sir.

7th x-int. How was the barge fastened?

A. Fastened by head lines.

8th x-int. To what was she fastened?

A. Fastened to the Belle of Pike?

209 9th x-int. What part of the Belle of Pike was she fastend to?

A. The forward part of the Belle of Pike.

10th x-int. Did you see any other barge there near the Belle of Pike?

A. No, sir.

A. No, sir.

11th x-int. You say you helped to fasten her?

A. Yes.

12th x-int. What particular part of the Belle of Pike did you fasten her to?

A. The forward part.

13th x-int. How close was her bow to the Belle of Pike where you fastened her?

A. Close to her.

14th x-int. What did you fasten her with?

A. With a rope.

15th x-int. Whereabouts did the stern of the barge come to the Belle of the Pike?

A. The stern of her came about half way betwixt the Belle of Pike's wheel and her stern; I couldn't tell exactly.

16th x-int. After you landed the barge, where did you take the City of Pekin?

A. Underneath the Belle of Pike.

17th x-int. And brought her in, did you?

A. Yes.

18th x-int. How long were you in getting the boat in after you came to the stern of the Belle of Pike before you got the Pekin landed?

A. Not more than 15 minutes.

19th x-int. What did you do to land the City of Pekin?

A. Dropped underneath the stern of the Belle of Pike, put a line to the Belle of Pike, and pulled her stern out, and hauled her right a-head.

20th x-int. How did you go in?

A. By steam.

21st x-int. Did you use her capstan?

A. I don't know whether we did or not; I can't tell.

22nd x-int. How did you pull the Belle of Pike out without using the capstan?

A. Sometimes by hand, and sometimes we use steam.

210 23rd x-int. How did you do in this case?

A. I can't tell whether we used steam or no; I forget.

24th x-int. What sized boat is the City of Pekin?

A. I suppose she would carry about 500 or 600 tons.

25th x-int. Is she a good sized boat?

A. Yes, a good sized stern-wheel boat.

26th x-int. How wide is she in the widest part?

A. I don't know.

27th x-int. About?

A. I suppose she has got about 35 or 36 feet beam, but couldn't tell.

28th x-int. How far beyond the beam do the guards extend on each side?

A. I suppose she has got about 3 feet guards, but that I couldn't tell exactly.

29th x-int. Was there a boat immediately below the Pekin when you came in?

A. Yes.

30th x-int. What boat was that?

A. The Maria Denning.

31st x-int. When you first commenced coming in with the Pekin, what distance was there between the stern of the Belle of Pike and the Maria Denning?

A. I couldn't tell.

32nd x-int. How close did they come together?

A. They came right close together. She didn't come right down to the Maria Denning, still the Maria Denning laid pretty much across the current, and that caused it, so that we couldn't get up for enough.

33rd x-int. About what was the distance between the stern of the Belle of Pike and the Maria Denning when the Pekin first came up?

A. I couldn't tell what the distance was.

34th x-int. Did the stern of the Belle of Pike come near to the Maria Denning?

A. Not a great ways from it.

211 35th x-int. About how many feet?

A. I am sure I couldn't recollect it; so long since I have no idea.

36th x-int. How much was the stern of the Belle of Pike thrown out by the City of Pekin coming in?

A. Just the width of the City of Pekin.

37th x-int. When you went on the barge Anna, after hearing that she was about to sink, how did you get on to the barge?

A. Across the Belle of Pike.

38th x-int. Across the Belle of Pike did you?

A. Yes.

39th x-int. Did you step from the Belle of Pike on to the barge?

A. Yes, sir.

40th x-int. How far from the deck where you stepped off the Belle of Pike was it to the edge of the barge at that time?

A. It was about 3 or 4 feet.

41st x-int. What part of the Belle of Pike was it?

A. I went right through the wheelhouse.

42nd x-int. Did you see anybody on the barge when you stepped on it?

A. I saw the watchman.

43rd x-int. Who?

A. Stephen Conley.

44th x-int. Any body else?

A. I don't recollect seeing any body else.

45th x-int. What part of the barge was Stephen Conley on?

A. He was standing on the upper quarter of her.

46th x-int. Near which end?

A. The after end.

47th x-int. Was he there when you looked to see if there was any water coming in?

A. Yes, sir.

48th x-int. Did he look with you?

A. I don't know whether he did or not. He was standing right there.

49th x-int. Was that the first time you went on the barge after she was landed?

A. Yes, sir.

212 50th x-int. How did you see the water? Did you have to stoop down?

A. No; I could stand right up and look down.

51st x-int. Was there a good deal of water in the barge?

A. There wasn't a great deal then; it was coming in pretty swiftly; I could see by its running.

52nd x-int. Was any of the barge then under water?

A. None of the upper part of her; none of her upper decks wasn't underneath then.

53rd x-int. How long after you first went on her before she began to capsize?

A. Well, it was not more than, I shouldn't think, more than 3 minutes.

54th x-int. How long were you on her at that time?

A. I wasn't on her not half a minute.

55th x-int. Was she not beginning to capsize when you first stepped on her?

A. No, sir; I couldn't tell she was going to capsize then. I know she was taking in water.

56th x-int. Where did you go when you stepped off of her?

A. I ran right back to the City of Pekin.

57 x-int. How far was the barge from the City of Pekin?

A. Just the width of the Belle of Pike. I don't know how wide she is; I suppose 45 or 50 feet wide.

58 x-int. Could you then step from the barge on to the City of Pekin?

A. No; I stepped from the barge on to the Belle of Pike, across to the City of Pekin.

59th x-int. What part of the Belle of Pike did you step on to?

A. At the wheelhouse.

60th x-int. How much of the freight had you discharged of
213 the City of Pekin when you first went to see the barge?

A. I couldn't tell how much we had discharged.

61st x-int. Had you discharged any freight?

A. Yes, sir.

62nd x-int. To what part of the wharf-boat was the Belle of Pike fastened that day?

A. The upper end of the wharf-boat.

63rd x-int. To what part of the wharf-boat was the City of Pekin fastened?

A. The after part.

64th x-int. Was there any boat fastened at the middle gangway of the wharf-boat?

A. No, sir.

65th x-int. Why did you not fasten the Pekin to the middle gangway?

A. We couldn't get up there.

66th x-int. Did the City of Pekin go out that afternoon?

A. Yes, sir.

67th x-int. Is it not usual when a boat is going out the same day to fasten to the middle gangway?

A. That depends a great deal on the levee room she has got.

68th x-int. Why could you note have fastened the City of Pekin to the middle gangway?

A. We couldn't get there very well. The Maria Denning laying so close to the wharf-boat, underneath her, and the Belle of Pike above her, we couldn't get up there.

69th x-int. Do you mean to be understood to say that you could not have got up to the middle gangway on that day?

A. I don't believe we could without breaking up the City of Pekin considerably in the way of stuncheons and fenders, and the like of that.

70th x-int. How was the barge Anna loaded? that is, was the grain in the hold or the deck?

A. In the hold.

214 71st x-int. What kind of grain was in the hold?

A. Corn; principally corn.

72nd x-int. In what?

A. In sacks.

73rd x-int. What was loaded on the deck?

A. Well, there was some barrels of pork, barrels of whiskey; there might be some sacks on top of them.

74th x-int. How many barrels of whiskey and pork?

A. Well, I disremember; I think, if I recollect aright, we had 100 of pork and fifty barrels of whiskey; I believe that was the complement we had; I am not sure.

75th x-int. Were all the barrels on deck?

A. Yes, sir.

76 x-int. Was that not a heavy load for the deck of a barge?

A. No, sir; it wasn't half a load.

77th x-int. Would not so many barrels of whiskey and pork make the barge top-heavy?

A. No, sir.

78th x-int. What was the tonnage of that barge?

A. I don't know, sir.

Re-examination.

By the libellants:

34th int. Don't you recollect of seeing another barge laying across the bow of the Belle of Pike, called the Julia, at the time the Anna was fastened there?

A. I don't recollect; she might have been there.

35th int. Did you fasten the barge Anna, or have the hands do it?

A. I was there and saw that she was made fast.

36th int. Are you certain that you fastened her to the Belle of Pike?

A. I know we had a line over on the Belle of Pike.

37th int. You have no recollection of another barge being there at all?

A. No, sir, I have not; still she might have been there, but I
215 don't recollect.

38th int. When the City of Pekin came in under the Belle of Pike, wasn't there a considerable space between the Belle of Pike and the Maria Denning—unoccupied space?

A. There wasn't such a very large space.

39th int. When the City of Pekin came in, didn't she come in alongside the Maria Denning?

A. Well, she had to fall in alongside her partly, with her stern coming alongside of the Maria Denning, by the Maria Denning's wheelhouse; but her bow you kept up to the stern of the Belle of Pike.

40th int. If there was any space between the Belle of Pike and the Maria Denning, when the city of Pekin came in, there was no necessity of shoving the Belle of Pike up the river as much as the width of the City of Pekin?

A. You must shove her up. A boat coming in like that takes more room than her own width to get in. The Belle of Pike laid straight by the current, and the Maria Denning lay across. You have got to twist your boat for to get in that place; you can't come in straight.

41st int. Where were you when the City of Pekin was making her landing? what part of the boat were you on?

A. I was forward.

42nd int. Were you assisting in making the landing?

A. Yes.

43rd int. When you say that the Belle of Pike was shoved up the river as much as the width of the City of Pekin, is that only a supposition of yours, or did you notice how much she was
216 shoved up?

A. That is only a supposition; I couldn't tell exactly how much she was shoved up.

(Signed) THOMAS DENBY.

James Powers.

The deposition of James Powers, on behalf of the libellant, taken before Edmund T. Allen, esq., a notary public of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the twenty-first day of November, A. D. 1866.

James Powers deposeth and saith, in answer to interrogatories and cross-interrogatories, as follows, viz:

1st int. What is your occupation?

A. Steamboating; I was steamboating on the Belle of Pike, when that barge sunk.

2nd int. What was your occupation at that time?

A. I was second mate on the Belle of Pike at that time; I helped to make that line fast on the barge before she sunk.

3rd int. Did you see the Fisher come in?

A. Yes, sir.

4th int. State what took place, and when it was.

I forget what day of the month, and what month it was; it was in the spring of this year, 1866; all that I saw, I saw the Fisher coming in there.

5th int. Where were you?

A. Right forward, on the Belle of Pike; I was working on the Belle of Pike; I didn't take no notice what damage was done; I was on the Belle of Pike's forecastle.

6th int. Where was the barge Annie?

217 A. There was one barge forward of the Belle of Pike, and I didn't know what barge that was.

7th int. Did you see the barge that was brought in by the City of Pekin?

A. Yes; she was made fast to the stern of the other barge that was forward of the Belle of Pike.

8th int. How near did the Fisher come to the barge Anna that was sunk?

A. I don't know exactly; I know she landed in against her; I don't know how near, for I didn't take any pains in looking at her, for I was at work on the Belle of Pike.

9th int. Did you see the Fisher when she rounded out?

A. Yes; I saw her when she rounded out.

10th int. How near did she come to the barge Anna when she rounded out?

A. I didn't see how near she came to her; I saw her rounding out, but I didn't pay any attention to her.

11th int. Did you go on board the barge Anna?

A. Yes, sir.

12th int. Who asked you to go on board of her?

A. Mr. Hancock did, sir; to help him make a line fast.

13th int. Where was the Fisher at that time?

A. She was rounded out.

14th int. Did you notice what effect the rounding out of the Fisher had upon the barge?

A. No, sir; I didn't notice what effect it did have until the barge sunk; she was sinking, and I went over there and saw her sinking. I didn't take notice of it, for I wasn't interested in it.

15th int. Do you know whether the barge was moved from her position by the Fisher in going out or not?

A. No, sir; I do not.

218 16th int. How long before she sunk did Mr. Hancock tell you to help him fasten her?

A. A very few minutes before she sunk; me and Mr. Hancock made the line fast on her.

17th int. Wasn't she fastened before?

A. She was; but this line wasn't sufficient to hold her; Mr. Hancock thought so, and he got a line out of the Belle of Pike and made her fast with it, and I went to help him.

18th int. You don't know how near the Fisher came to the barge when she came in or rounded out?

A. No; I didn't see.

19th int. You were busy on the Belle of Pike?

A. Yes.

20th int. How was the barge loaded?

A. She wasn't loaded deep at all; the way I looked at her she had no dangerous load at all on her, that I could see; I have seen barges loaded a heap heavier than her, in the same place, and nothing ever happened.

21st int. What position was the barge laying with the current?

A. She was laying kind of quartering up and down with the current against the wheel of the Belle of Pike.

22nd int. And that, you say, was a few minutes before she sunk?

A. Yes, sir.

23rd int. Would you call her position with the current easy at that time or not?

A. Well, I wouldn't call it dangerous at all; I wouldn't think the current was any way dangerous.

24th int. Was the city of Pekin fastened at that time or not—the boat below you?

A. Yes, she was fastened; they were just making her fast to the wharf-boat.

219 25th int. And the Fisher had gone out in the stream?

A. Yes.

26th int. Where was the Fisher at that time?

A. I didn't take notice.

Cross-examination.

1st x-int. What effect was produced on your boat by the City of Pekin going in under her?

A. I would think it would take no effect.

2nd x-int. Did it throw out her stern?

A. It throwed out her stern some, but I don't think any way dangerous.

3rd x-int. About how many degrees?

A. I can't tell you, sir; I don't know.

4th x-int. You say the City of Pekin had got in and had got fastened to the wharf-boat when you went on board the barge?

A. She was about fastening, I think, sir.

5th x-int. Where was the City of Pekin fastened?

A. To the wharf-boat, sir.

6th x-int. Where were you at work? on what part of the Belle of Pike were you?

A. I was right forward.

7th x-int. Near the bows?

A. Yes, sir.

8th x-int. On the lower deck?

A. Yes, sir.

9th x-int. Could you see pretty distinctly the barge from where you were?

A. Yes, sir; I could see her plain.

10th x-int. Now, you could have seen if the Fisher struck her, could you not, from where you were?

A. I could if I was there; but I wasn't there.

11th x-int. Could you see from the boat where you were?

A. I could see she came up agin her, if I was watching; but I wasn't watching.

12th x-int. You didn't, as a matter of fact, see her strike?

220 A. I saw her come in; she couldn't come in without striking, you know; the boat couldn't land without striking the barge.

13th x-int. What had the Fisher in tow, if anything?

A. I don't know what.

14th x-int. Didn't she land a coal-flat on the barge above?

A. I forget whether she did or not.

15th x-int. If the Fisher struck the barge would it create any effect on the Belle of Pike? Could you have felt it on the Belle of Pike?

A. If I was standing still I might have felt it; but I wasn't standing still no time.

16th x-int. You say you were not standing still?

A. No; I wasn't.

17th x-int. You didn't feel any such motion?

A. No, sir.

18th x-int. Did you hear anything said before Mr. Hancock?

A. No, sir; I did not.

19th x-int. When Mr. Hancock called you where was the Fisher?

A. She was rounding out.

20th x-int. How near had she rounded out? How was her head?

A. She was rounding out; I can't tell how near.

21st x-int. Where was her head?

A. Out a piece in the current.

22nd x-int. That was when you went on board the barge?

A. No; that was before I went on board the barge.

23rd int. When you went on board the barge, where was the Fisher?

A. She was rounded out.

24th x-int. Entirely rounded out, was she?

A. Yes, sir.

25th x-int. How far was the Fisher from the barge when you went on board the barge?

A. I wasn't on board the barge when the Fisher was alongside at all.

26th x-int. Then she had rounded out?

A. Yes.

221 27th x-int. Was she in sight at that time?

A. Yes.

28th x-int. How far off?

A. I could'nt tell how far.

29th x-int. 200 or 300 yards?

A. Yes. I guess about that; I couldn't tell exactly.

30th x-int. Did you see the barge above the Anna?

A. Yes, sir.

31st x-int. Whereabouts did she lay?

A. Right across the bows of the Belle of Pike with a line made fast in a ring-bolt on the levee, and another made fast to the wharf-boat along the Belle of Pike's bow.

32nd x-int. Did you see any coal barge landed there?

A. I forget whether there was any coal barge there or not, sir. I didn't pay any attention to it.

33rd x-int. Was there any coal brought on board the Belle of Pike that day?

A. Yes, sir.

34th x-int. From where?

A. From the Fisher.

35th x-int. From the flat-boat of the Fisher?

A. Yes, sir.

36th x-int. Where was that flat-boat landed that had the coal?

A. I don't know that she was landed alongside the steamboat.

37th x-int. I am speaking of the barge in front. Wasn't there a flat-boat of coal fastened to the barge in front; that is, to the barge, laying across the bows of the Belle of Pike?

A. I don't know, sir; I don't recollect seeing it.

38th x-int. Where did the coal come from? from the boat Fisher or from the flat—the coal that came on board the Pike?

A. It generally came from the flat, of course. I don't know where it came from that day.

222 39th x-int. Did'nt you see any flat-boat at all there--coal boat?

A. Not at that time; I don't recollect that I did. I don't recollect seeing any flat-boat there. There may have been one unbeknown to me--I forget—it was so long ago.

40th x-int. Were any other men on board the Belle of Pike at that time while you were there?

A. All the men were there working.

41st x int. All the hands?

A. Yes, sir.

42nd x-int. Did any of the other hands go on the barge when you did to help Hancock?

A. After the barge sunk they all rushed over there, but to make the line fast; there did'nt any one else go; me and Mr. Hancock were the last men on the barge. Hancock was on the other barge when the barge sunk making the line fast.

43rd x-int. Do you know what caused the sinking of the barge?

A. No, I could'nt say, sir. I think from the jar the Fisher gave her agin the Belle of Pike's wheel; that might have sunk her.

44th x-int. You don't know that was the case?

A. No, I don't know it; that is my opinion.

45th x-int. What was on the deck of the barge?

A. Whiskey in barrels and sacks, and sacks in the hold.

46th x-int. Was there considerable on deck?

A. No; there wasn't. I often see a good deal more on a barge.

47th x-int. What is your business now?

A. Mate of a steamboat.

48th x-int. What steamboat?

A. The Ira Woodward.

49th x-int. In whose employ?

A. Mr. Hancock's.

(Signed) JAMES POWERS.

223 *Depositions on part of respondent.*

Depositions for the respondent, read upon the hearing of cause.

Otis T. Irons.

The deposition of O. T. Irons, on behalf of the respondent, taken before George W. Bailey, esq., a notary public of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the thirty-first day of October, A. D. 1866.

O. T. Irons, being by me first duly cautioned, examined, and sworn to testify the whole truth, deposeth and saith: I reside in Alton, State

of Illinois. I follow steamboating for a living; at present on the steamboat Fisher. I was in charge of the steamboat Fisher in the early part of April last as master. I remember having landed a coal-flat alongside the barge Julia for the Belle of Pike at the wharf-boat of the Naples Packet Company. I saw the barge Anna laying alongside of the Belle of Pike. I could not say whether she was made fast to the barge Julia or the st'r Belle of Pike. I think the barge Julia was made fast to the upper end of the Naples wharf-boat.

Question. In coming in with the steamboat Fisher, how near did you come to the barge Anna?

Answer. I should think it was within fifty or sixty feet, but not nearer. The coal-flat that we were towing was fastened to the bow of the Fisher; about half of the flat was in front of the Jack staff of the Fisher. We landed the coal-flat at the upper end of the
224 barge Julia; that is, the end nearest the Naples wharf-boat. Just before we landed I saw Mr. Hancock on board the barge Anna. The barge Anna was loaded at the time, I should say she was very heavily loaded. I remarked it at the time; when we came up I did not notice whether the barge Anna was creeled over or not.

Question. How near did the water come to the top of the barge?

Answer. I really don't know hardly how to answer that question, because the wind was blowing very hard at the time; the waves would brake over on the upper side of the barge as the water struck the side of the barge.

Question. How deeply was the barge loaded?

Answer. I could not say. I saw the steamboat City of Pekin while I was at the landing.

Question. Where was the City of Pekin at the time you left the landing?

Answer. She lay at the stern of the Belle of Pike, her bow just under the stern of the Belle of Pike, getting ready to pull out the stern of the Belle of Pike. I judged so from the way their lines lay to the stern of the Belle of Pike.

Qnestion. When a boat goes into a landing between other boats, what effect does it have on the boats above the boat going into the landing?

Answer. It fetches the boat above the one that [that] was going into the landing across the current or against the current. It shoves it up against the current, and pitches it at nearly right angles to the current.

225 Question. Where a barge is lying at a landing against the upper side of a large steamboat, and is heavily laden, and in the current, and at nearly right angles with the current, what effect would be produced on said barge by a steamboat coming in below the boat to which the barge is fastened? where the boat coming in is obliged to come in between the boat to which the barge is fastened, and another boat lying immediately below?

Answer. The pressure against the barge would tend to work the barge up on the fenders of the boat that the barge was lying against, and the current coming against the barge would tend to sink the upper side of the barge down.

Question. What, in your judgment, would be the condition as to the safety of the barge Anna when the steamboat City of Pekin had come in below the Belle of Pike and fastened to the wharf-boat, as she would lay at the time above referred to?

Answer. I should say that she lay in a very dangerous position; it would sink any landed barge in my opinion. The current of the river at that time and place was very rapid, the water was very high.

Cross-examination.

By ———:

At the time I saw Mr. Hancock I was standing about half-way between the chimneys and the wheelhouse on the upper larboard guard. He spoke to me. He said, don't land alongside of this barge, this loaded barge. I replied I will not, Mr. Hancock;
226 I will land above here. There was no boat or barge above us where we landed. The Julia was fastened to the bits of the extreme upper end of the wharf-boat. I do not mean by extreme the stern or end, but the side of the Naples, wharf-boat. There was not space enough above the barge for a boat to be fastened at the wharf-boat; that is, not to lay against the wharf-boat. I did not land the Fisher at that time; that is I did not make her bow fast by lines. I fastened the coal-flat to the barge Julia, and then rounded out. I do not know the length of the steamboat Fisher. The City of Pekin was laying at the stern of the Belle of Pike when I left getting her lines out.

Re-examination.

By Mr. Knight:

I should judge that the distance between the Naples wharf-boat and the wharf-boat at the first ferry landing above was between fifty and sixty feet.

By Mr. K.

Question. You stated in your cross-examination that after you had landed the coal-flat alongside the barge Julia that you rounded out. Did you, in rounding out the steamboat Fisher, come in contact with the barge Anna?

Answer. No, sir.

By Mr. Rankin:

Question. How near did the steamboat Fisher, or the coal barge she had in tow, come to the barge Anna at any time, either when you were coming in or rounding out, after you had landed the coal-flat?

Answer. In rounding out, the middle of the Fisher was the nearest part that came to the barge Anna. I should think between
227 the middle and the barge Anna was between two and three feet, as near as I could tell from where I stood.

(Signed) OTES TURNER IRONS.

Wm. P. Christie.

The deposition of William P. Christie, on behalf of the respondent, taken before G. W. Bailey, of St. Louis county, Missouri, a notary public for said county, at the city of St. Louis, in said eastern district, on the second day of November, A. D. 1866.

William P. Christie, of lawful age, having been by me first duly cautioned, examined, and sworn to testify the whole truth, doth depose and say: My name is W. P. Christie. I reside at Alton, State of Illinois. My business at present is check clerk on the Fisher. I am twenty-three years of age. In April last I was check clerk on the steamboat Fisher. I remember the steamboat Fisher landing a coal barge alongside the barge Julia, near the Naples Packet landing in April last. I was on the Fisher when she made that landing. I saw the barge Anna laying near the Naples Packet landing when the Fisher came up.

Question. State, if you can, how near the steamboat Fisher came to the barge Anna in landing the coal barge alongside the barge Julia.

Answer. Not nearer than twenty feet. The steamboat Fisher occupied about 15 minutes in landing the coal barge alongside the barge Julia. I saw the coal barge being fastened to the barge
228 Julia; I was standing on the barge Julia at the time.

Question. How far was the barge Anna from where you was standing while on the barge Julia?

Answer. From ten to forty feet, as I stepped on the stern of the barge Julia and walked forward; I mean it ranged from ten to forty feet, as I walked forward. The barge Anna was loaded very heavily. She was fastened to the stern of the barge Julia. She lay alongside the Belle of Pike, about opposite the coal barge or the Belle of Pike. I should judge the stern of the barge Anna extended down to the after part of the wheelhouse of the Belle of Pike.

Question. State whether or not the barge Anna was creeled over any at that time?

Answer. I did not notice.

Question 11. How near did the water come to the top of the barge on the outside?

Answer. I should judge from six to ten inches, as the waves were at that time breaking over her, caused by the wind.

Question. Do you mean to say that if the water broke over her, that the water then was from six to ten inches below the top of the barge.

Answer. I do.

Question. How then could the water break over her, if it was six or ten inches below her?

Answer. Heavy waves caused by a high wind, and the barge Anna laying against the current. The action of the current, the barge laying against could cause the waves to break over her.

229 Question. What was the condition of the current at that time?

Answer. The river was very high and, as a consequence, the current was very strong.

Question. How did the barge lay in reference to the current?

Answer. At an angle of about forty-five degrees. I noticed the steamboat City of Pekin at the time. She was at that time under the stern of the Belle of Pike making her lines fast, apparently to coming under the Belle of Pike.

Question. Did the City of Pekin come in under the Belle of Pike and fasten to the landing?

A. I did not see her do it, but she was in that position an hour later.

Question. Were you there when she came in under the Belle of Pike?

(Question objected to by Mr. Broadhead as leading.)

Answer. I was not.

Question. How long did you stay there after you saw the City of Pekin at the stern of the Belle of Pike with her lines out as you have stated.

Answer. Only long enough for the men to make the coal barge fast to the barge Julia. I then returned on board the Fisher.

Question. How long did it take the men to make the coal barge fast to the barge Julia?

Answer. About five minutes.

Question. State where you went after you went on board the boat from the barge Julia?

Answer. I went on the port side of the boiler deck, just aft of the chimneys, outside on the guard of the Fisher.

Question. Where did the Fisher then go?

Answer. She backed out and proceeded up the river to
230 some boat near the Mississippi landing.

Question. How near did the steamboat Fisher go to the barge Anna in backing out, and proceeding on her course?

Answer. Not nearer than five feet.

Question. State if you know how far from the barge Anna is the usual course of the ferry-boats in rounding to and coming up to their landing?

Answer. From forty to sixty feet.

Question. What would be the effect produced on the water where the barge Anna lay by the ferry-boats rounding to, to come up to their landing?

Answer. It would make very heavy waves.

Cross-examination.

By Mr. Broadhead:

Question. Did you get on the barge Julia merely for the purpose of having the coal barge fastened to her?

Answer. No, I did not; I got off the boat (Fisher) to see if the deck-room of the Pike was in such condition that I could coal her.

Question. Did you go on board the Pike?

Answer. I did not.

Question. To what part of the Julia was the coal barge fastened?

Answer. To her bits.

Question. Was the barge Julia lying alongside the Pike or across her bows?

Answer. Slightly across her bow. The stern of the Julia was not touching the Pike at that time. When I first got on the barge Julia I walked forward about two-thirds her length towards her bow. I saw Mr. Hancock on the barge Anna when the Fisher came in. He spoke to the captain. I can't say what he said. I heard Capt.
231 Iron's reply. He said, I will not. At that time, I was on the boiler deck on the larboard side near the chimneys or the guard of the Fisher. It was the same position I occupied when she went out. I proceeded down the forward steps of the str. Fisher, from thence to the coal barge to the Julia.

Question. Do you recollect of looking back at the barge Anna, at any time from the time you left the boiler deck of the str. Fisher, until you had had the coal barge fastened?

Answer. I looked at her when I started from the Fisher and when I returned. I had been watching the barge Anna from the time we first rounded in there, as she looked as if she was in danger of sinking. I had noticed her before Mr. Hancock spoke. In rounding in the Fisher came to the barge Anna not nearer than twenty feet. I was on the larboard side of the Fisher when she rounded out. When she rounded out I walked further aft to see if she came any ways near the Anna. I was on the boiler deck.

Question. Then you went across to the starboard side of the boat.

Answer. No, sir; I did not.

Question. If you were not on the starboard side of the boat, how could you see how far the Anna was from the Fisher?

Answer. The only part that could come near the barge Anna was the stern of the Fisher, and I am positive that the Fisher was so far out in the stream by the time her stern would get opposite the barge, that she must have been forty to sixty feet away from the
232 barge Anna, judging from the eye.

Question. Then what you say about the distance is only a supposition, and not what you actually saw?

Answer. Only a supposition.

Question. Did the Fisher round out or back out?

Answer. She backed out a little and then rounded out.

Question. Did she commence rounding before she passed the Anna or afterwards?

Answer. She commenced rounding out when the Fisher's stern was about on a line with the stern of the barge Anna.

Re-examination.

By Mr. Knight:

Question. What do you mean when you say that the stern of the Fisher, when she began to round out, was on a line with—of the barge Anna—do you mean that the stern of the Fisher was immediately above; that is, up the current from the stern of the barge Anna?

Answer. Draw a line across the river, and the stern of the Fisher and the stern of the Anna would be about parallel with it.

Question. Was the stern of the Fisher north or east of the stern of the barge?

Answer. The stern of the Fisher was east of the barge. I was standing on the larboard side of the Fisher, on the boiler deck, looking outside of the wheelhouse towards her stern.

Question. Could you from that position, see how near the stern of the boat came to the barge?

Answer. At first I could, and supposed there was no danger of her striking the barge Anna. I then walked forward.

(Signed) WM. P. CHRISTIE.

William J. Dougherty.

233 The deposition of William J. Dougherty, on the behalf of the respondent taken before George W. Bailey, esq., a notary public of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the second day of November, A. D. 1866.

William J. Dougherty, being by me first duly cautioned, examined, and sworn, to testify the whole truth of his knowledge, doth depose and say:

My name is William J. Dougherty; I reside in St. Louis, Mo.; I will be twenty-one next month; I am checking coal for the Illinois & St. Louis Railroad & Coal Co. I was on the Fisher in April last. I was tally clerk or checking coal. I was on her when she landed at the Naples packet landing with a coal barge for the steamboat Belle of Pike. I saw the barge that lay alongside the Belle of Pike. I did not know her name. I was on the larboard side of the Fisher when she landed, on her guard, outside the railing.

Question. How near did the steamboat Fisher come to the barge Anna in landing?

Answer. I should say between twenty and thirty feet; not nearer than twenty.

Question. On what part of the boat were you when the Fisher landed and rounded out?

Answer. I was standing on the larboard guard until she started to round out, and as as soon as she started to round out, I went through the cabin back on to the stern of the boat, on the boiler deck, and stood on the stern of the boat until we got above the ferry landing.

Question. How near did the stern of the Fisher come to the barge Anna in rounding out?

Answer. Not nearer than ten feet; it might have been twenty.

234 *Cross-examination.*

By Mr. Brodhead:

Question. How came you to leave the guards of the boat and go to the stern through the cabin and look at the barge Anna?

Answer. Because there was a barge sunk belonging to the Fisher, that was left in the same way that the barge Anna was, not long before that.

Question. Did you expect to see the Fisher strike the Anna when she was rounding out?

Answer. I had some idea of her stern touching the barge. I did not stop as I went through the cabin. I was hardly two minutes going from the guard where I was standing, to the stern of the boat. I walked right through. It was not longer than twenty minutes from the time the Fisher went in until she rounded out. The Fisher did not tie up. The barge Julia was there; we left a coal-flat alongside of her. I did not help to fasten the coal barge to the Julia. The Julia was lying slightly across the bow of the Belle of Pike. I was employed on board the Fisher at that time. I was checking coal. I saw Mr. Hancock on the Anna as the Fisher came in. The captain of the Fisher was standing on the larboard guard of the boiler deck. He was about fifteen feet from where I was. I heard Mr. Hancock say something to the captain; the words I didn't hear. Captain of the Fisher replied that he would not land against her. At that time she must have been not nearer than thirty feet and might have been sixty.

Question. Don't you know that she was not sixty feet from the barge Anna?

A. I do not. The Fisher was going straight to the Naples
235 wharf-boat, her bow being slighly up the river. At that time she was northeast of the Anna.

(Signed) WILLIAM J. DOUGHERTY.

Geo. Stanley.

The deposition of George Stanley, on behalf of the respondent, taken before Edmund T. Allen, a notary public of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the twenty-sixth day of November, A. D. 1866.

George Stanley deposeth and saith, in answer to interrogatories and cross-interrogatories, as follows, viz:

1st int. State your age, residence, and occupation.

A. I am 34 years of age, and reside in St. Louis; I am an engineer on the river.

2nd int. What was your occupation in April last?

A. I was engineer on the Francis Fisher.

3rd int. Were you on the Fisher the day she landed a coal-flat alongside a barge for the purpose of coaling the Belle of Pike?

A. Yes, sir.

4th int. How did the Fisher come in to land the coal-flat? How was she coming? up steam?

A. We were coming down; we rounded to, to pull the flat-boat to the Pike?

5th int. At which landing?

A. Near the Illinois river landing.

6th int. How did the Fisher come in, and what did she do?

A. We came down there with a barge load of coal, as near as I

could judge, to coal the Belle of Pike; we came down there and
236 rounded to, and were very near square with the current in the river, and they let go the head line of the coal barge, and it swung into the barge, near the Belle of Pike.

7th int. What barge was that?

A. It was one of the two barges laying there; it was the upper barge.

8th int. Where did you land the barge? on which side of the barge Julia?

A. On the upper side; on the starboard side of the barge Julia.

9th int. How far up on the barge did the coal-flat land?

A. The coal-flat that was landed there struck the barge Julia just about midships.

10th int. Did you see the barge Anna, belonging to the Illinois Packet Company, lying there?

A. Yes. I saw the barge that was sunk.

11th int. How near did the Fisher in coming up, come to the barge Anna?

A. After we rounded to, we came within 10 or 20 feet of her.

12th int. How long did the Fisher remain landing the coal-flat? How long was she engaged in landing the coal-flat?

A. I don't think she was over 8 minutes.

13th int. How near did she come to the Anna in rounding out?

A. After we dropped the coal-flat we passed right down past the stern of the lower barge.

14th int. Clear below her?

A. Yes, sir; clear below her; both wheels were stopped when we passed her.

15th int. How near did you come to her in rounding out?

A. We might probably have touched her, but I didn't feel or see her touch her.

16th int. Could you have felt it if the wheel had struck?

A. Yes; most undoubtedly.

237 17th int. Where were you at the time?

A. Standing at the engine.

18th int. On the lower deck?

A. Yes, sir. I seldom ever have an opportunity to leave the engine, unless when compelled to do it.

19th int. Were you looking towards the barge at any time?

A. Yes; I noticed the barge particularly; watched it; looked at it.

20th int. What was the position of the barge Anna?

A. In my opinion I think she was laying in a very critical condition. She was laying kind of across the current, and she was loaded very deep; and I noticed that the waves from the ferry boats went up on the side of the barge.

21st. int. Did you see anybody on the barge?

A. Yes, sir.

22nd int. Who was it?

A. I saw a few laboring men, and I saw Capt. Hancock on the barge.

23rd int. Did you see the City of Pekin there?

A. I couldn't see her very well from where I was. I knew she was there, but I didn't see her. She was trying to get under the Belle of Pike. I couldn't see her from where I stood.

24th int. What was the stage of water at that time?

A. The water was tolerable high at that time.

25th int. Look at the paper, marked "Exhibit A," attacned to Scudder's deposition, and say whether that is a correct representation of the barges and the boats at the time the Fisher came in.

A. I don't think that is exactly the position the boats were in. The barge Julia was along down a little further, and the barge Anna was still further down; down the side of the barge, about the
238 wheel of the Belle of Pike.

26th int. Is the position of the nna correct as to the current? Was she more or less quartering as to the current?

A. I think that is about as much as she could get into the current.

27th int. That is about right as to the current?

A. Yes, sir.

28th int. What would be the effect of the City of Pekin coming in under the Belle of Pike to the landing?

A. It would have a tendency to shove the Belle of Pike more across the stream, and the Anna would go up outside of her.

29th int. How much would it shove up the stern of the Belle of Pike?

A. It would shove it up anyway $\frac{2}{3}$ of the width of the City of Pekin, from the fact that if boats crowd in with one another, it will crowd the boats up a litte, and put them more against the current.

30th int. About what width was the City of Pekin, if you know?

A. I do not know what her width is.

31st. int. Did the Fisher have fenders on?

A. Yes, sir.

32nd int. How near down to the water did they come?

A. They came generally to about 6 inches of the water; when she is under way they touch the water.

33rd int. Would it be possible for the Fisher in coming up, to have run the guards over either of the barges while those fenders were in their proper places?

A. No, sir; she couldn't have done it. They touch the water pretty much all the time; when she is under way, they drag in the water deep.

34th int. Do they run from the upper deck clear down towards the water?

A. Yes.

239 35th int. What are these fenders?

A. They are made out of pecan wood.

36th int. What is their diameter—their thickness?

A. I should judge about 8 inches at the butt—at the water.

37th int. And taper up?

A. Yes, sir; probably they are not more than 6 inches; they are very heavy, I know.

38th int. What is the character of the business the Fisher was engaged in?

A. Legitimately in the coal trade, but she tows boats along the levee.

39th int. Was she properly equipped and manned at that time?

A. Yes; as near as I should judge, she was.

40th int. Did she have a full compliment of men and officers?

A. Yes, sir.

41st int. How was she handled at the time, in going in there?

A. She was handled as carefully as they generally handle steamboats at any place, as near as I could see. We were in no particular hurry on account of the position the barge was in when we came in there.

42nd int. Did you leave the coal-flat there at the barge Julia?

A. Yes, sir.

43rd int. Did you notice what other boats or barges were at the landing besides the boats named?

A. No, sir. I did not. I couldn't see at all. I never was below where we landed.

44th int. Did you see the waves coming from the ferry-boat coming in there while you were there?

A. Yes, sir.

45th int. About how near in their course did the ferry-boats come to where this barge lay?

A. Well, I should judge that the stern of the ferry-boat
240 when she came into the landing there wasn't over 50, not over 40 yards from the barge, probably not so far.

46th int. What character of waves did she create in rounding to, to land at their landing?

A. The same as any other boats of their size.

47th int. Were they small?

A. They wasn't very large; tolerable large; as much as a boat of that kind would make.

48th int. Did you notice whether these waves, any of them, struck the barge Anna?

A. Yes, sir; I did.

49th int. Did they strike her?

A. I saw the waves rolling up on the Anna.

Cross-examination.

By the libellant:

1st. x-int. Were you the engineer on watch when the Fisher came in and went out that day?

A. Yes, sir.

2nd x-int. Did you remain at the engine when the Fisher was going in and coming out?

A. Yes, sir; I did.

3rd x-int. Could you see out of the engine house of the Fisher?

A. Yes, sir; I could see directly opposite to me and in front—ahead of—me both.

4th x-int. How far was the ferry landing above the Naples wharf-boat?

A. It was about 25 or 30 yards above the Naples wharf-boat.

5th x-int. The Fisher came in between the ferry landing and the wharf-boat, did she?

A. No, sir.

6th x-int. Came in above the wharf-boat?

A. No; outside of the wharf-boat; outside of the steamboats.

7th x-int. Was the ferry-boat landing above or below her when she came in?

A. The ferry-boat was above the Fisher and above the wharf-boat.

8th x-int. Then she came in between the Anna and the
241 place where the ferry-boats landed?

A. What, the Fisher?

9th x-int. Yes, sir.

A. No, sir; she came in above the barges.

10th x-int. She came in above the barge and not above the ferry-boat?

A. No, sir; the ferry was above.

11th x-int. Didn't she come in between the ferry-boat and the barge?

A. No, sir. Do you mean when the ferry-boat landed or came in to land?

22th x-int. I don't care which.

A. She was below the ferry-boat at all times.

13th x-int. Was it between the ferry-boat and the barges that the Fisher came in?

A. No; it was below the ferry-boat, and on the outside of the barges.

14th x-int. Ain't that between the ferry-boat and the barges?

A. No, sir; it ain't.

15th x-int. Ain't that then between the barges and the wharf-boat?

A. I don't look at it in that way.

16th x-int. Did she come in between the Naples wharf-boat and the ferry landing?

A. No, sir; she came outside of the steamboat, next to the Naples wharf-boat.

17th x-int. And what was above that?

A. The ferry-boat.

18th x-int. Then she came in between?

A. I can't see it that way.

19th x-int. You can't?

A. No, sir.

20th x-int. The Fisher came in nearer to the Anna than the ferry-boat would in coming to a landing, didn't she?

A. Yes.

21st x-int. When was it you saw the waves of the ferry-boat run up alongside the barge?

A. When we were out in the river before we landed.

242 22nd x-int. You thought then there was some danger to the barge Anna from the Fisher running in where she did?

A. I thought probable that if the waves of any boat went against her she would sink.

23rd x-int. The waves of the Fisher?

A. The waves of any boat.

24th x-int. Were there any other boats coming in besides the Fisher?

A. The ferry-boat above.

25th x-int. Didn't she come in after the Fisher?

A. We came in below, and came up alongside.

26th x-int. Didn't the Fisher come in nearer to the barge than the ferry-boat did?

A. Yes, sir; she did.

27th x-int. How many men did you see on the barge Anna when the Fisher came in?

A. I think I noticed two laborers, men with blue shirts on, and Captain Hancock, I noticed him.

28th x-int. How far do the guards of the Fisher extend over her hull or sides?

A. From the hull of the boat to the outside of the guard is, I suppose, about 12 feet.

29th x-int. How high are the guards of the Fisher above the water?

A. When she is in trim I suppose she is about 18 inches from the water—when she sets level on the water.

30th x-int. These fenders that you spoke of, they are loose movable pieces of timber, are they not?

A. Yes.

31st. x-int. Suspended by ropes to the hull of the boat?

A. Yes, sir.

32nd x-int. Did you hear Captain Hancock say anything to the Capt. of the Fisher when she came in?

A. No, sir, I did not; I couldn't have heard anybody speak no how, where I was standing.

243 33rd x-int. Did you see him make any motions?

A. I same him raise his hands above his head.

35th x-int. Was he looking at the Fisher at the time?

A. Yes, sir.

35th x-int. Did you understand the signal that Capt. Hancock gave when he raised his hands?

A. No; I didn't know what he meant at the time; we wasn't within 8 feet of the barge at that time, I don't think.

36th x-int. Was that when the Fisher was coming in?

A. That was just after we had dropped the flat.

37th x-int. Didn't you see him as the Fisher came in?

A. No, sir; I didn't.

(Signed) GEORGE W. STANLEY.

The deposition of Logan Alexander, on behalf of the respondent, taken before Geo. W. Bailey, esq., a notary public, of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the 8th day of November, A. D. 1866.

Logan Alexander, having been by me first duly cautioned, examined, and sworn to testify the whole truth, doth depose and say: My name is Logan Alexander. I reside at Louislana, in the State State of Missouri. I will be thirty-two years old in February next; my business is piloting on the river. I have been pilot on the river for six years; I was pilot on board the steamboat Fisher in April last; the business of the Fisher at that time was towing coal-flats for the purpose of coaling steamboats; her principal business was towing coal-flats from eighteen miles above the city of St.
244 Louis to the port of St. Louis. I recollect landing a coal-flat at the Naples packet landing for the Belle of Pike in April last. I was making the landing there; Mr. Hancock was standing on a barge that was very heavily laden; she lay outside of the Belle of Pike. I was making the landing there and Mr. Hancock said not to run against the barge, and I run the boat up a little higher to another barge that lay tied fast to a wharf-boat stuck out in the river a piece—I mean the stern of the barge. I landed the coal-flat. I think it was about amidships to that barge, or a little higher. In coming in I couldn't say the precise distance between the Fisher and the barge Anna. I could see the barge all the time from the pilot house, and know that the boat never touched that barge with the wheels or rudder. In getting out, rounding out, I waited until the current struck her and drifted the Fisher out, so that there would be no danger of throwing any water into the loaded barge, and when I started away I worked the boat slow. After getting away so I thought there was no danger, then I came a head strong—full headway.

Question. In rounding the Fisher out how near did she come to the loaded barge Anna?

Answer. About 25 or 30 yards of her; I don't think she was nearer than that. I mean the stern of the boat. I was in the pilot house at that time.

Question. Did you notice the condition of the barge Anna, and if so, why?

Answer. I noticed the condition of the barge and remarked to the captain of our boat that there would be another sunken barge.
245 We had lost several coal flats in the same place, and in the same situation, and I noticed the City of Pekin trying to get in under the Bell of Pike, when I was making the landing. When the City of Pekin went in there she crowded the Belle of Pike and barges further out into the river.

Question. Had the City of Pekin come in before you rounded out?

Answer. The City of Pekin had not got in when I started away with the Fisher.

Question. Then do you not mean that when the City of Pekin had

come in under the Belle of Pike, it would shove the stern of the Belle of Pike, and the barge above it up against the current?
(Question objected to by Mr. Brodhead.)
Answer. Yes, sir.

Cross-examination

By Mr. Broadhead:

I remained in the pilot house all of the time. There is a very strong current there. I have always found a difficult place to land.

Question. You say that in rounding out you waited until a current struck the boat and drifted the boat out. Do you mean to say that the current drifted the boat out into the river, or down the river?

Answer. I mean out into the river. In coming in, I suppose I came within fifty or sixty yards of the barge. I heard Mr. Hancock say don't land against it.

Question. How much nearer to the barge did the boat come at any time?

Answer. About 25 or 30 yards was the nearest she came to the barge, as near as I could judge from the pilot-house, where I was at the time. I had about as good a sight from the pilot-house
246 as there was anywhere about the boat, I suppose.

Question. Did you intend to land the coal barge alongside of the barge Anna at the time Mr. Hancock spoke to you?

Answer. I generally wait for the captain to say where he wants his barge landed, and he told me to land it outside of the empty barge Julia. That was when he heard Mr. Hancock hallo a, and told us not to run against his barge, and then I ran the boat up to the other barge. The wheels of the Fisher were stopped when Mr. Hancock told us not to land against the barge, but still she had headway enough to take her to the barge Julia without working the wheels any more.

Question. Did you bring the Fisher alongside of the barge Julia?

Answer. No, sir; I brought her close enough to drop the coal-flat, and then left her drift out. The Fisher came within about eighteen or twenty feet of the barge Julia. We had the coal barge in tow on the larboard side of the bow of the boat.

(Signed) LOGAN ALEXANDER.

The deposition of Moses F. Bagley, on part of the respondent taken before L. L. Walbridge, esq., a notary public of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the 26th day of November, A. D. 1866.

Moses F. Bagley; 31 years of age; occupation, carpenter, deposeth and saith in answer to interrogatories and cross-interrogatories, as follows, viz:

1st int. What was your business in April last?

A. I was carpenter on the steamer Fisher.

247 2nd int. Were you on board the Fisher on the day she landed a coal-flat for the purpose of coaling the Belle of Pike, near the Naples Company's packet landing?

A. I was.

3rd int. Whereabouts was that coal-flat landed by the Fisher?

A. It was landed alongside a barge at the upper end of the Illinois River Packet Company's wharf-boat. . I don't know what her name was.

(Counsel agree that the barge alluded to by witness is called the "Julia.")

4th int. How far upon that barge Julia was the coal-flat landed?

A. I judge about one-third of the way up.

5th int. Look at that diagram A, (attached to the deposition of Scudder,) and say if that is about the correct position of the Belle of Pike and the two barges in reference to the wharf-float?

A. That is about the way they laid.

6th. int. Now you say she landed about one-third up the length of the Julia?

A. Yes, sir.

7th int. How long was she engaged in landing that coal-flat?

A. Not long.

8th int. About how long?

A. Well, I cannot tell how long. I walked on the aft guard, (when she run in there I was in the deck-room,) and went on the aft guard to see what she run in for. I saw she left a barge there and was coming out, as I walked out on the aft guard.

9th int. Where were you on the boat when she ran out?

A. Standing on the stern.

10th int. Which side?

A. The larboard side.

11th int. On what deck?

A. On the main deck; the lower deck.

12th int. Were you close to the edge of the deck?

A. Yes, sir.

248 13th int. How near did the Fisher, in rounding out, come to this barge Annie?

A. Well, I can't say positively; but I think she came pretty close to her.

14th int. How many feet?

A. Well, I can't tell; I did not notice particularly.

15th int. Did she strike her?

A. No, I don't think she did; I did not see her strike the Annie there.

16th int. Could you have seen from the position you occupied if the Fisher struck the barge Annie?

A. Yes, sir, I could feel it; I was on the aft-guard.

17th int. Did you see anybody on the barge?

O. Yes, sir.

18th int. Who?

A. I saw a man. I don't know who it was; he was watching us

at the time we were going out. They told me afterwards that it was Mr. Hancock. but I did not known him at the time.

19th int. What part of the barge was he standing on when the Fisher was running out?

A. He was on, I should judge, about one-third of the way from the bow of the barge.

20th int. Which bow, the stern or the front?

A. The bow of the barge.

21st int. One-third of the way from the bow?

A. Yes.

22nd int. Did you notice the barge as to how it was loaded?

A. Yes, sir; that is the only thing I did notice about it particularly at the time.

23rd int. What did you observe?

A. I noticed she was very heavily loaded, and I remarked to one of the men in the deck-room when I came in, "Them fellows better be unloading that barge." It was too heavily loaded for the position she was in at the time.

24th int. What position was she lying?

249 A. Lying broadside to the current, pretty much astern, a little down the river. I think really more so than we have got it there in the diagram ("A" attached to Scudder's deposition.)

26th int. What condition was the current in at that place?

A. The current of the river was pretty brisk just then. The river, at that time, was swift.

27th int. How far out from the shore or wharf-boat was it to where this barge Annie lay?

A. Well, I can't tell exactly. She lay to the stern of the other barge.

28th int. About how far from the wharf-boat?

A. Well, it must have been 100 feet or so any way—somewhere about there.

29th int. Did you notice the City of Pekin then?

A. Yes, sir.

30th int. The City of Pekin is represented on that diagram ("A" attached to Scudder's deposition) at the stern of the Belle of Pike. Was that about the position you saw her in?

A. She just made her bow enter under the Belle of Pike when we was leaving there at the time.

31st int. She had not got in to the wharf-boat yet?

A. No, sir; just under the stern of the Pike, shoving up on the Pike, crowding herself in.

32nd int. What effect would it have on the stern of the Belle of Pike when the City of Pekin came in to the landing?

A. It would shove the Belle of Pike's stern out in the river.

33rd int. Out and up?

A. Up the river; yes, sir.

34th int. What effect would that have on the barge Annie?

A. Fetch the barge broadside to the current. The more they shoved the Pike up the more square with the current would the barge come.

247 2nd int. Were you on board the Fisher on the day she landed a coal-flat for the purpose of coaling the Belle of Pike, near the Naples Company's packet landing?

A. I was.

3rd int. Whereabouts was that coal-flat landed by the Fisher?

A. It was landed alongside a barge at the upper end of the Illinois River Packet Company's wharf-boat. . I don't know what her name was.

(Counsel agree that the barge alluded to by witness is called the "Julia.")

4th int. How far upon that barge Julia was the coal-flat landed?

A. I judge about one-third of the way up.

5th int. Look at that diagram A, (attached to the deposition of Scudder,) and say if that is about the correct position of the Belle of Pike and the two barges in reference to the wharf-float?

A. That is about the way they laid.

6th. int. Now you say she landed about one-third up the length of the Julia?

A. Yes, sir.

7th int. How long was she engaged in landing that coal-flat?

A. Not long.

8th int. About how long?

A. Well, I cannot tell how long. I walked on the aft guard, (when she run in there I was in the deck-room,) and went on the aft guard to see what she run in for. I saw she left a barge there and was coming out, as I walked out on the aft guard.

9th int. Where were you on the boat when she ran out?

A. Standing on the stern.

10th int. Which side?

A. The larboard side.

11th int. On what deck?

A. On the main deck; the lower deck.

12th int. Were you close to the edge of the deck?

A. Yes, sir.

248 13th int. How near did the Fisher, in rounding out, come to this barge Annie?

A. Well, I can't say positively; but I think she came pretty close to her.

14th int. How many feet?

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15th int. Did she strike her?

A. No, I don't think she did; I did not see her strike the Annie there.

16th int. Could you have seen from the position you occupied if the Fisher struck the barge Annie?

A. Yes, sir, I could feel it; I was on the aft-guard.

17th int. Did you see anybody on the barge?

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18th int. Who?

A. I saw a man. I don't know who it was; he was watching us

at the time we were going out. They told me afterwards that it was Mr. Hancock. but I did not known him at the time.

19th int. What part of the barge was he standing on when the Fisher was running out?

A. He was on, I should judge, about one-third of the way from the bow of the barge.

20th int. Which bow, the stern or the front?

A. The bow of the barge.

21st int. One-third of the way from the bow?

A. Yes.

22nd int. Did you notice the barge as to how it was loaded?

A. Yes, sir; that is the only thing I did notice about it particularly at the time.

23rd int. What did you observe?

A. I noticed she was very heavily loaded, and I remarked to one of the men in the deck-room when I came in, "Them fellows better be unloading that barge." It was too heavily loaded for the position she was in at the time.

24th int. What position was she lying?

249 A. Lying broadside to the current, pretty much astern, a little down the river. I think really more so than we have got it there in the diagram ("A" attached to Scudder's deposition.)

26th int. What condition was the current in at that place?

A. The current of the river was pretty brisk just then. The river, at that time, was swift.

27th int. How far out from the shore or wharf-boat was it to where this barge Annie lay?

A. Well, I can't tell exactly. She lay to the stern of the other barge.

28th int. About how far from the wharf-boat?

A. Well, it must have been 100 feet or so any way—somewhere about there.

29th int. Did you notice the City of Pekin then?

A. Yes, sir.

30th int. The City of Pekin is represented on that diagram ("A" attached to Scudder's deposition) at the stern of the Belle of Pike. Was that about the position you saw her in?

A. She just made her bow enter under the Belle of Pike when we was leaving there at the time.

31st int. She had not got in to the wharf-boat yet?

A. No, sir; just under the stern of the Pike, shoving up on the Pike, crowding herself in.

32nd int. What effect would it have on the stern of the Belle of Pike when the City of Pekin came in to the landing?

A. It would shove the Belle of Pike's stern out in the river.

33rd int. Out and up?

A. Up the river; yes, sir.

34th int. What effect would that have on the barge Annie?

A. Fetch the barge broadside to the current. The more they shoved the Pike up the more square with the current would the barge come.

250 35th int. Have you been on the river a considerable time as carpenter?

A. Yes, sir.

36th int. About how long?

A. About 10 years.

37th int. Now, I want to ask you what in your opinion was the condition, or would be the condition, of the barge Annie, after the City of Pekin had come in, as to her safety?

A. I should think she was in a very bad condition, because the current would be likely to turn the barge over.

38th int. How far was the barge Annie at that time from the usual course of the ferry-boats in rounding to, to make their landings?

A. I should judge about 75 or 100 feet, may be more; somewhere about there, as nigh as I could tell.

39th int. What effect would the rounding to of the ferry-boats have upon the water, in rounding to at that point?

A. The ferry-boats raised very heavy swell as they rounded to; the swells would be likely to run over.

40th int. What effect, in your judgment, would the swells from the ferry-boats, in rounding to, have on the barge Annie, situated as she was at that time?

A. I should think the swells would roll right over, right into her.

41st int. Did you notice, as a matter of fact, whether the swell did strike her?

A. There was no ferry-boat landed there while I was there. I did not notice any swells of any amount while we was there; there was no ferry-boat come in while we was there.

42nd int. Was the position of the barge Annie a safe position, in your judgment?

(Counsel for libellant objected to foregoing interrogatory.)

A. No, sir; it was not.

251 43rd int. Had the steamboat Fisher fenders at that time?

A. Yes, sir.

44th int. Do you know how many there were on each side?

A. No, sir. I can't tell how many; a fender at every stancheon though.

45th int. How near did these fenders come to the top of the water?

A. From 6 to 8 inches; some of them were down to the top of the water.

46th int. With the fenders of the Fisher down, was it possible for the guard of the Fisher to have over-ridden either of those barges in coming in?

A. No, sir; she could not do it. That is the reason we have long fenders to keep her off the barges. She couldn't go on the barge; that is, her guard could not run over any other barge.

Cross-examination.

By the libellant:

1st x-int. In whose employ were you, as carpenter, in April last?

A. The Madison County Coal Company.

2nd x-int. You are in the employment of that company yet?

A. Yes, sir.

3rd x-int. Does that company own the Francis Fisher?

A. I suppose they do.

4th x-int. Whereabouts were you on the Fisher when she came in with the coal-flat, on the occasion you have spoken of?

A. I was in the deck-room.

5th x-int. At what time did you come out of the deck-room?

A. Just as we was going out from the landing.

6th x-int. Did the Fisher land?

A. She run a barge in alongside the model barge there; left it, and came out again.

7th x-int. Do you know how near the Fisher came to the
252 barge Annie when she came in with the coal-barge?

A. No, sir; I was in the deck-room then.

8th x-int. The diagram you have referred to, marked "A," refers to the position of the boats at the time the Fisher went out, does it?

A. Yes, sir.

9th x-int. And when the Fisher rounded out, you saw the barge Annie was nearly square with the current?

A. Well, it was nearly square with the current. She lay in an angle of about 45 degrees, I think—about that somewhere; a little more out, I think, than is represented in the diagram ("A.")

10th x-int. Did you notice what boat there was below the Belle of Pike, when you went out on the Fisher?

A. No; I noticed none, except the Pekin. I could not see any other from where I stood.

11th x-int. You could not see, then, what space the City of Pekin had to make her landing?

A. No, sir; I judged she had not much, from the way she was crowding in—crowding the Pike up.

12th x-int. Had she crowded the Pike out when you left?

A. She just got her bow entered at the time we left, and was shoving the Pike up at the time.

13th x-int. Was that the time when the Fisher was near to the barge Annie?

A. Yes, sir.

14th x-int. What induced you to go on deck, at the time the Fisher was rounding out?

A. Nothing—well, I walked out there to see what she had been doing. I often walk out to see what she lands for, and what she is doing.

15th x-int. Was your attention directed to the barge Annie,
253 when you came out, the first thing?

A. I noticed the barge lay there very heavily loaded.

16th x-int. Did you see any one on board the barge Annie, at that time?

A. Yes, sir; there was a man aboard.

17th x-int. Only one man?

A. I did not see but one.

18th x-int. Did you hear him say anything?

A. No, sir; I did not.

19th x-int. Did you maintain your position till the Fisher had got clear out into the stream?

A. Yes, sir.

20th x-int. You stated in your examination-in-chief, you did not know how near the Fisher was to the barge Annie, as she went out?

A. Well, she came in pretty close; I can't tell how near exactly.

21st x-int. Why can't you say how close she was?

A. Well, if I had went out purpose to measure the distance, I could have seen, but as I was not noticing that particularly, I did not pay much attention to it.

22nd x-int. You were not there noticing particularly the position of the barge Annie, at the time the Fisher went out?

A. I noticed it, because she was laying across the current, and I remarked to one of the men there, standing inside, that she was ———

23rd x-int. I thought you said just now you did not notice it?

A. You asked the question, how far that was from the barge Annie. I told you I could not tell exactly,

24th x-int. You said the reason you could not tell, was, you were not noticing particularly; was not that what you said?

A. I was not noticing particularly how close we was to her.

25th x-int. What were you noticing?

254 A. When we left there, I was noticing the barge.

26th int. What was there particular about the barge to notice?

A. It was for just this reason. She was heavy loaded, I thought to myself. That is the reason I noticed her.

28th x-int. Didn't you apprehend there was some danger from the Fisher coming so close to her?

A. No, sir; because I have seen her in many dangerous places; worse than that, a great deal, and no harm done.

29th x-int. You thought there was no danger then from the Fisher touching the barge, either in coming in or going out?

A. No, sir; no danger at all. We lost two loaded coal-barges, laying in the same position that barge was.

30th x-int. Do you suppose a barge in that position would not be more endangered by having a steamboat run close by her, than from any ferry-boat near there?

A. The swells might roll over the barge, if she was under much headway, enough to make large ones.

31st x-int. You think there was a good deal of danger from the ferry-boat 100 feet above, and no danger from the Fisher close by?

A. No, sir; when the Fisher was under no headway, she would not make a swell that the ferry-boat does when she leaves the landing or any other place, and just starts out.

32nd x-int. Was she under any headway when she came in?

A. She should not have swells, of course not. She could not come in with headway; she would be in danger of smashing things. She came in slow.

33rd x-int. How do you know?

A. I judge from the ringing of the bell, when the engines were stopped.

255 34th x-int. And you say, any boat to land must come in slow?

A. If she makes a decent landing, she must.

35th x-int. Is not that true in regard to a ferry-boat?

A. Yes; in regard to a ferry-boat, of course it is; but a ferry-boat throws bigger swells, and she never stops her engines till she gets straightened with the current.

36th x-int. And there is more danger from a ferry-boat than any other?

A. From any other that throws as big swells as the ferry-boat.

37th x-int. Why does a ferry-boat throw bigger swells than any other boat?

A. Well, sir, it is because their wheel sets in a recess, and the swells has no chance. They are piled up in one place in this recess in the hull, and they all come out in a pile, or come out in big swells, just as you are in a mind to have it to suit yourself.

38th x-int. Were you apprehensive of some danger to this barge, when you came on deck, and the Fisher ran out?

A. I didn't know the barge was there, or anything else, when I walked out.

39th x-int. How close were you to the barge, standing on the deck of the Fisher, as she came out?

A. I judge 10 or 15 feet.

40th x-int. Did you hear Mr. Hancock say anything?

A. No, sir; he did not speak, that I know of, while I was out there.

(Signed) W. F. BAGLEY.

The deposition of James Abrams, on behalf of the respondent, taken before George W. Bailey, esq., a notary public of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the 31st day of October, A. D. 1866.

James Abrams deposeth and saith: I reside in Naples, State of Illinois. My business is steamboating. I have been in that business for fifteen years. I was in April last, and am now, master of
256 the Belle of Pike. In the early part of April last, I landed the Belle of Pike, at the Naples Packet Co. wharf-boat, at the foot of Spruce st. I saw the libellant's barge Anna landed by the City of Pekin, after we landed. She was landed outside of the Belle of Pike, made fast to another barge, which we had across our bow. There were some barges fastened to the wharf below us. The City of Pekin came in outside of us and left the barge, and then she came in below us to the wharf-boat; that is, she dropped down, and came in below us. The barge Anna was fastened to another barge laying across our bow, and made fast to the wharf-boat. The barge Anna was loaded. I saw freight on her. After the City of Pekin came in below us, the barge Anna lay at an angle of fifty or sixty

degrees to the current. At this time the water was pretty high—at the time the barge Anna was laying against the Belle of Pike's wheel.

Question by Mr. Knight: What in your judgment was the condition of the barge Anna, as to safety, lying as you say against the wheel of the Belle of Pike, and being at an angle of fifty or sixty degrees to the current, and with a load of freight on as she lay?

Answer. That is a pretty hard question to answer, because I don't know how deep the barge was loaded. If the barge was heavily loaded, it was a dangerous place for a barge to lay in the current, being exposed to the swells caused by the ferry-boats coming into their landing. The force of the current and waves would have a tendency to draw the barge Anna under; that is, I mean to say that the current of the river, and the waves from the ferry-boats coming in, would cause the barge to creel over or draw under.

257 I saw the barge Anna, after she had sunk under. She sank down, turned over, and came up bottom side up on the inside of the Belle of Pike, her bow under the bow of the Belle of Pike, and lying alongside of the wharf-boat with the current. I saw the steamboat Fisher coming in outside. The Fisher came in on the outside of the barge Julia, being the barge laying across our bow. I do not know where the Fisher fastened. The Fisher came in to leave a barge of coal for us. She left the coal-flat on the outside of the barge Julia.

Question. What distance from where the barge Anna lay is the usual course of ferry-boats in rounding to, to come in to the ferry-boat landing?

Answer. Usually, I should judge about fifty feet; sometimes further off; sometimes closer. I don't think the City of Pekin had got into the landing at the time the Fisher landed. I was not there when the barge Anna sunk. I do not know whether the City of Pekin had fastened to the wharf-boat before or after the sinking of the barge.

Question. Was the steamboat City of Pekin coming in below you before the barge sank?

Answer. I do not know.

(The taking of the said deposition of the said James Abrams not being completed because of the time arriving at which the steamboat Belle of Pike, of which the said James Abrams is master, was advertized to leave the port of St. Louis, Mo., the same was adjourned until the 2nd day of November, A. D. 1866, to the same place as aforesaid, then and there to be continued between the same hours as aforesaid.)

Pursuant to the adjournment, as above stated, on the 2nd day of November, A. D. 1866, I resume the taking of said deposition:

Question by Mr. Knight. State the distance from where
258 the Belle of Pike lay to the nearest point of the usual course of the ferry-boats in rounding to, for the purpose of coming in to their landing.

Answer. About fifty feet, I should think; sometimes more, sometimes less.

Cross-examination.

By Mr. Brodhead:

The Fisher had just come in when I left the Belle of Pike to go up town. I could not tell how near the Fisher came to the barge Anna. I was not on that side of the Belle of Pike when she came in. When I left, I don't think the City of Pekin had come into the landing. I am not positive whether she was in at the landing or at the stern of the Belle of Pike.

Question. As you were leaving about that time, could you tell how much of the stern of the Belle of Pike was thrown up stream, or did you notice how much?

Answer. It is a question that I can't answer very well. I think she laid out at an angle of forty or forty-five degrees at that time to the current. This was nearly the position that she occupied all the time.

Question. Are you certain that the Belle of Pike was thrown up stream at all, or is it merely an inference that you draw from the other facts in the case?

Answer. I am certain that the stern of the Belle of Pike was thrown up stream by the City of Pekin coming in. In coming in, the City of Pekin did touch the Belle of Pike. I should think the stern of the Belle of Pike was thrown up stream, I should think at an angle of fifty or sixty degrees with the current.

Re-examination.

By Mr. ———.

Question. You say, in your cross-examination, that the Belle of Pike nearly all the time occupied a position of about forty-five
259 degrees to the current, as she lay at the landing. Do you mean to say that that is her position when no other boats are coming in below her, or do you mean to say that that is her position when other boats come in to the wharf below her?

Answer. I mean to say that that is her position when there are no boats below her.

(Signed) J. ABRAMS.

The deposition of Frederick Schreiber, on behalf of the respondent, taken before Edmund T. Allen, a notary public of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the 1st day of December, A. D. 1866.

Frederick Schreiber, a resident of East St. Louis, in the State of Illinois, 29 years of age, pilot on ferry-boat, on oath deposeth and saith, in answer to interrogatories and cross-interrogatories, as follows, viz:

1st int. What was your business in April last?

A. Pilot on the ferry-boat Charles Mulliken.

2nd int. Where was the Mulliken running at that time?

A. From the lower landing, from East St. Louis to the Spruce St. landing.

3rd int. Do you remember seeing near the Naples Packet landing the steamboat Belle of Pike and a barge laying there during the month of April last?

A. I saw a barge laying there and a boat; but I don't know what month it was in.

4th int. What time of the year was it?

A. It was in the spring of the year, I guess.

5th int. Did you notice what steamboat was laying there?

A. Yes, sir.

260 6th int. What steamboat was it?

A. The Belle of Pike.

7th int. How near, in the course of your boat, did you go to this barge and the Belle of Pike in coming in to the landing?

A. I think it must have been some 50 or 60 feet from the barge, coming in.

8th int. What is the usual course in coming in to the landing? Do you go down stream, and turn up and come up?

A. Yes.

9th int. Do you know the steamboat Francis Fisher?

A. Yes, sir.

10th int. Did you see her come in?

A. Yes, sir.

11th int. With a coal-flat?

A. Yes, sir.

12th int. How did she come in? Did you not[ice] Anna lay i[n] to see how she came in?

A. Yes, sir; she came in easy, as easy as any [boat] could come in.

13th int. Where were you when the Fisher came in on the occasion you speak of?

A. Coming in at the same time at the landing.

14th int. Ahead or after the Fisher?

A. Ahead of the Fisher; she was right behind us.

15th int. Did you notice what position the barge was in, laying alongside the Pike?

A. Yes.

16th int. What position was she in?

A. She was in a pretty bad position.

17th int. How was she in a bad position?

A. She was pretty heavily loaded, and the water was awfully high; a pretty strong current, and she was almost square with the current.

18th int. That is, square across the current?

A. Yes, sir.

19th. Do you know what the name of that barge was?

A. I do not, sir.

261 (Libellant objects to the above testimony as irrelevant, it not appearing that the deponent is speaking of the barge Anna.)

20th int. What part of the Belle of Pike was she near?

A. She was on the upper side, the starboard side of the Belle of Pike.

21st int. What effect did the passing in and out of the ferry-boats have on the water there, near where that barge lay?

A. The waves occasionally would roll up on the barge; that is, just about a foot or two, and the water would come back again.

22nd int. Do you know anything about that barge sinking that you speak of?

A. Yes, sir; I saw her just as she was keeling over. I didn't see her at the first start; she was a little more than gone; the lower side was just coming up.

23rd int. Well, the starboad side went down, did it, and the larboard side keeled over?

A. Yes, sir.

24th int. Was that after the Fisher had gone?

A. Yes, sir.

25th int. Where were you at that time?

A. On the stern of the boat?

26th int. The ferry-boat?

A. Yes, sir; down on the main deck.

27th int. You could see distinctly?

A. See the barge go down?

28th. Yes, sir.

A. Yes, sir; that is, she was capsized already when I was looking at her.

29th int. How long did you remain at that landing on that trip; at your ferry landing?

A. I should think about 12 or 15 minutes. I couldn't say exactly, but about that time; 12 or 15 minutes, I think, it must have been that we laid at the landing.

30th int. As you went out on that next trip, did you see the barge?

A. I could see the bits of her yet; that was all I could see
262 of her. I saw the line where she was fast; she was underneath the Pike, and I couldn't see her any more.

31st int. Couldn't you see the bows of her?

A. No, sir.

32nd int. How long have you been a pilot?

A. 5 years; between 4 and 5 years.

33rd int. Did you see the City of Pekin come in?

A. Yes, sir.

34th int. Where did the City of Pekin land finally?

A. When I saw her she was alongside the Pike with a barge; below the Pike, shoving a barge up.

35th int. Do you mean she landed a barge on the upper side of the Pike?

A. Yes, sir.

36th int. Now, where did she land herself after she had left the barge?

A. In between the Pike and the wharf-boat, as much as I know.

37th int. What effect, if any, did the coming in of the City of Pekin below the Belle of Pike have upon the barge?

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A. Yes, sir.

36th int. Now, where did she land herself after she had left the barge?

A. In between the Pike and the wharf-boat, as much as I know.

37th int. What effect, if any, did the coming in of the City of Pekin below the Belle of Pike have upon the barge?

A. I couldn't tell that.

38th int. What effect did it have on the stern of the Belle of Pike?

A. I didn't take notice.

39th int. What effect would it necessarily have if a boat like the City of Pekin coming in below about like the Belle of Pike, situated as they were? what effect would it have on the stern of the Belle of Pike?

A. It would shove her stern more up stream, of course.

(Foregoing testimony objected to as irrelevant, by the libellant, the witness not having identified the barge.)

Cross-examination.

By the libellant:

1st x-int. Have you got a license for piloting?

A. Yes.

2nd x-int. How long have you had license?

A. 3 years.

3rd x-int. You state that the course of the ferry-boats was about 50 or 60 feet from where the barge lay. You mean where
263 the ferry-boats were landed, not their course when coming in?

A. Coming in I mean. Laying at the landing, they were not quite that far from her.

4th x-int. You say you don't know what barge it was?

A. No.

5th x-int. Was it not the daily practice of the Pike and Pekin to land barges there?

A. Yes.

6th x-int. How is it you recollect this particular barge?

A. I couldn't tell; for I was coming in at the same time, and I couldn't tell what barge it was.

7th x-int. And you don't know what month or what day it was?

A. No, sir; for I didn't pay any attention to that at all.

8th x-int. How wide are these ferry-boats?

A. They are different sizes.

9th x-int. Do you know how wide the Fisher is?

A. No, sir.

10th x-int. How could you and the Fisher both be within 50 or 60 feet of the barge?

A. I didn't mean the Fisher, I meant the barge. The Fisher was below us, and I had to come in above.

11th x-int. Where was your position properly on the boat as pilot?

A. In the pilot-house.

12th x-int. How could you be in the pilot-house and on the after-deck?

A. I came out of the pilot-house after pretty near all the teams were out of the boat, and went up with the boys for a lunch and a glass of beer. It was half-past 9 or 10 o'clock, and I went up to get a glass of beer and some lunch, and as we came back some one says, "There goes the barge."

13th x-int. Did you not state in your examination-in-chief that it was when you came in you saw this ?

A. I saw the barge when we came in, but it was after we
264 came in that she sunk.

14th x-int. You don't know where the Pekin landed ?

A. No.

15th x-int. You don't know anything about it ?

A. No, sir.

16th x-int. Do you recollect at that time seeing a barge laying right across the bows of the wharf-boat and the Belle of Pike, square out in the current ?

A. Yes.

17th x-int Where was the loaded barge tied ?

A. I can't tell where she was tied; but I saw the line fast to the wharf-boat after she was sunk. I don't know where she was tied before. If they made a line fast after she was going down, I don't know it.

18th x-int. You know but little about it ?

A. I know I saw a line fast to the wharf-boat.

19th x-int. Wasn't that after the Pike and the Pekin both went out in the evening ?

A. No; that was in the morning, right away after she sunk.

20th x-int. How was it possible to get a line fast to the wharf-boat when the Pike was laying between the sunken barge and the wharf-boat ?

A. I suppose the line had been fast there before, and slipped right underneath the bows of the Pike.

21st x-int. Then it is all suppositions that you know ?

A. It is just what I stated that I know, and that is all I know of it.

(Signed) FREDERICK SCHREIBER.

The deposition of Washington J. McCann, on the part of the respondent, taken before Edmund T. Allen, a notary public of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the thirtieth day of November, A. D. 1866.

265 Washington J. McCann, a resident of Pike county, in the State of Illinois; 41 years of age; an engineer upon the river, deposeth and saith in answer to interrogatories and cross-interrogatories, as follows, viz:

1st int. What was your occupation in April last ?

A. I was an engineer on steamboat Belle of Pike.

2nd int. Were you on the Belle of Pike when the barge Anna sunk near the Illinois Packet wharf-boat ?

A. I was, sir. I couldn't swear whether it was the Anna or Armada, or whatever it may be; a barge sunk there anyhow. I never saw the name of her.

3rd int. Did you see her when she sunk ?

A. No, sir; I didn't see her when she sunk. I mean I didn't see her sink.

4th int. How long after she sunk did you see her?

A. Well, I don't think it could have been over 10 minutes, probably 15 minutes, when my attention was called to her.

5th int. How did the barge lay when you first saw her?

A. She was laying at the stern of the barge Julia, on the starboard side of the Belle of Pike, bottom side up, with Capt. DeWitt standing on the bottom of the barge. The stern of the barge was lying under our wheel, under the starboard wheel of the Belle of Pike.

6th int. Where was the bow?

A. At the stern of the barge Julia.

7th int. Was she fastened?

A. I think she was.

8th int. To what?

A. To the barge Julia, I think.

9th int. How much of her was out of water?

A. I suppose there was 15 feet of her, probably, in length, and from the angle she stood, the stern being under our wheel, would raise the bow probably 8 inches, may be 10, above the level
266 of the water; I couldn't say particularly; that is about the position she lay.

10th int. You say Capt. DeWitt was on her bottom?

A. He was standing on her bottom, the first I saw of her.

11th int. How long did she remain in that position? About how long did you see her in that position?

A. For about 10 minutes, I suppose. I saw her in that position, then I went back to my work again.

12th int. Where did you next see her?

A. I saw her laying on the larboard side of the Belle of Pike, in between her and the wharf-boat, and the boat below. I think the stern of her lay rather under the bow of the Pekin, or whatever boat lay there. I don't recollect whether it was the Pekin or whether it was another boat. I don't recollect what boat it was.

13th int. Where were you standing when you saw her between the Belle of Pike and the boat below?

A. I was standing on the larboard guard of the Belle of Pike, about the after end of the boilers; that would be pretty near as far aft as we could get on the forward guard.

14th int. How much of the bottom of the barge Anna could you then see from that position?

A. I couldn't say positively how much there was of it out.

15th int. About how much—2-3 or ¾—whatever it was?

A. I think the position she laid in at that time, there couldn't have been more than one-third of the length of her out, and that would be the forward end, as a matter of course.

16th int. What kept her bow up rather than her stern?

A. Well, I don't know, sir, after she got in there, what could have kept her up.

267 17th int. What kept her up before?

A. I think the line made fast to the Julia buoyed her up, the line being so short, and the current under her, and the stern of the barge being under the wheel of the Belle of Pike.

18th int. You speak now of her position prior to her coming under?

A. Yes; that was the position she lay in prior to her going under below the Belle of Pike. This was while she lay on the starboard side that I speak of now.

19th int. Could you discover any breaks or leaks in the bottom at the time you looked at her, after she had come down below the Belle of Pike?

A. No, sir; nothing more than the holes they bored in her with an auger. They bored these holes in her after she was turned over, in order to make a line fast, I suppose.

20th int. What effect would the boring of the holes have on a barge turned over in that way?

A. Well, it is owing to circumstances. If the barge was air-tight it would let the air out, what air was contained in between the water and the barge, and cause her to go deeper down in the water.

21st int. Did you notice whether in this instance, when the holes were bored, that any air escaped?

A. I did not notice that.

22d int. I will call your attention to this diagram. (Exhibit "B" attached to Scudder's deposition.) I would ask you if that would be the position of the barges in reference to the Belle of Pike and the wharf-boat?

A. Yes, sir; that is about as near the thing as could be
268 drawn up, as my recollection serves me, about the position they would lay in.

23d int. What angle as to the current would the barge lay?

A. Well, I don't know as I could say positively; probably about 30° or 35° of an angle across the current.

24th int. Was that the angle she lay before or after she capsized?

A. I didn't see her before she capsized. She couldn't have laid any straighter before; that is, if she was made fast to the stern of the barge Julia, which she was when I saw her.

25th int. How many feet from the bow, the extreme bow, of the Anna, was it to your boat, the Belle of Pike, when you saw her?

A. Well, I don't think it could have been over 6 or 8 feet. I don't think it could have been over 8 feet; that was the extreme bow, and you could jump from our guard over on to the bottom of the boat.

26th int. That was when her stern was under the wheel of the Belle of Pike?

A. Yes, sir.

27th int. I will ask you if you had any conversation with Capt. Hancock on that day?

A. I did not.

28th int. Did you hear him make any remarks about this barge?

A. I think I heard him ask Capt. DeWitt—I supposed his conversation was directed to Capt. DeWitt—he wondered what could have done it, and what answer he got I don't recollect.

29th int. Do I understand you correctly in saying that Capt. Hancock made a remark of that kind to Capt. De Witt?

A. I supposed it to be to him.

30th int. It was in the presence of Capt. De Witt?

A. Yes.

31st int. Where did Hancock stand at that time?

A. I think on the stern of the barge Julia.

269 32nd How long after the sinking was that?

A. I couldn't say; it was not more than 10 minutes after I was informed that the barge was turned over.

Cross-examination.

By the libellant:

1st x-int. Was any other person present but Capt. De Witt when Mr. Hancock made that remark you spoke of?

A. Yes, there was.

2nd x-int. Who else?

A. Wm. Mitchell, 2nd engineer of the steamboat Belle of Pike.

3rd x-int. Any one else?

A. The carpenter was on the bottom of the barge with an auger in his hand, I believe, in the act of boring holes; several other persons were standing round promiscuously, as people will, on an occasion of that kind, crowd in around.

4th x-int. You know Capt. De Witt, I suppose?

A. Yes; I have known him ever since he was a little boy.

5th x-int. This remark was made to him?

A. I think so; I couldn't say so positively.

6th x-int. It was made in his presence and hearing?

A. Yes.

7th x-int. How close to Capt. DeWitt was Mr. Hancock?

A. I suppose he was within 10 or 15 feet of him; maybe 10 feet; it might have been closer.

8th x-int. He addressed his conversation to Capt. De Witt?

A. I think he did; I won't be positive whether it was to Capt. De Witt or who it was to.

(Signed) W. J. McCANN.

The deposition of Joseph Mitchell, on the part of the respondent, taken before Edmund T. Allen, esq., a notary public of St. Louis county, Missouri, at the city of St. Louis, in said eastern dis-

270 trict, on the 30th day of November, 1866.

Joseph Mitchell, a resident of St. Louis, 18 years of age, assistant engineer on the river, deposeth and saith, in answer to interrogatories and cross-interrogatories, as follows, viz:

1st int. State your business in April last?

A. I was engineer on the river, and had been for three years, but I wasn't doing anything at that present time; but I was standing on the guards at the time.

2nd int. You were not employed at that time?

A. No, sir.

3rd int. Were you present at the landing of the Illinois Packet Company on the day on which a barge was sunk there?

A. Yes, I was present. I was on the Belle of Pike, standing on the guards—the starboard guards.

4th int. Did you see the barge Anna when she capsized?

A. I did not see her at the time she capsized. I saw her before and afterwards, but not at the time she went down.

5th int. About how long before she capsized did you see her?

A. I saw her when the City of Pekin landed the barge there. I saw the Pekin come in and land the barge.

6th int. After the barge was landed, about how did she lay in reference to the current?

A. Well, she laid—I think the forward part of the barge was made fast to the stern of the Julia, and the after end of the barge swung down against the wheel of the Bell of Pike, or, may be, a little forward of the wheel—almost straight with the current at that time, before the City of Pekin went in under the Belle of Pike.

7th int. After the City of Pekin went in below the Belle of Pike, what was her position?

271 A. It naturally shoved the stern of the Belle of Pike out into the current further, and so shoved the barge crossways of the current, the stern of the barge.

8th int. At about what angle did the barge lay as to the current after the City of Pekin came in below the Belle of Pike?

A. I don't know; I couldn't say that—what angle. I have no idea what angle it was at all; maybe 25 or 30 degrees, or 35 degrees; that is the nearest I can come at it.

9th int. When you saw the barge, after she was capsized, what position did she lay in?

A. The forward part of the barge was made fast to the stern of the barge Julia, and the after part of the barge was laying immediately under the Belle of Pike's wheel.

10th int. How much of the barge was above the water?

A. I suppose about $\frac{1}{3}$ of the barge was above the water; the forward part of the barge turned right over.

11th int. You mean $\frac{1}{3}$ of the bottom?

A. Yes, sir.

12th int. How much above the water at the extreme bow did she lay?

A. From the bottom of the barge to the water's edge may be 10 inches or a foot, not over that, maybe not quite so much as that; I think 10 inches or 12 inches.

13th int. Did you notice any holes, or breakages, or leaks, in the bottom of the barge at that time?

A. No, sir; not any but the augur holes that were drilled there purposely.

14th int. Were you there when the augur holes were bored?

A. Yes. I saw the man bore the holes.

15th int. Who did it?

A. I can't say that; it may have been the carpenter of the City of Pekin, or somebody else; I don't know.

16th int. What effect was produced by boring the holes?

A. Just like compressed air coming out of the barge. The
272 barge was full of air, I suppose, and when they bored the holes in the bottom, it naturally came out—the air did—out of the barge.

17th int. How did you know that?

A. Because I saw it. I saw the water spouting up out of the barge; when they bored the holes in it the air and water came up out of the holes.

18th int. Was there any other means by which you could tell that there was air confined in there and coming out?

A. No.

19th int. Couldn't your hear it?

A. Yes; I heard it and saw it. I heard it and supposed it was air. I was pretty certain it was air, for it made a noise resembling that which air would make coming out of a tight place.

20th int. What effect did that have on the barge?

A. I think the barge kept going down after that; kept settling.

21st int. Did you know whether the barge settled down more rapidly or less so than before the holes were bored?

A. I think it settled down more rapidly than it did before the holes were bored.

22nd int. Was the bow of that barge fastened at that time?

A. Yes, it was fastened to the stern of the Julia; to the after part of the barge Julia.

23rd int. Which part of the barge seemed to sink the fastest?

A. The after part, because the forward part was held up by a short line, and the current under the barge had a tendency to keep the forward part of the barge up.

24th int. Did you see the barge afterwards?

A. I did not see it after it went under the Pike.

25th int. Did you see it when it disappeared?

A. No, sir; I did not. I didn't see it then at all.

273 26th int. Did you see Mr. Hancock there?

A. Yes; I saw Hancock and Capt. De Witt.

27th int. Where were they at that time?

A. Mr. Hancock was in the after end of the barge Julia, and Capt. De Witt on the bottom of the sunken barge.

28th int. Did you hear any conversation between them?

A. I heard a conversation going on, but I couldn't understand what they talking about. I supposed they were talking about the barge; but I couldn't tell.

Cross-examination.

By the libellant:

1st x-int. Where were these holes bored?

A. Right in the bottom of the barge.

2nd x-int. As she was turned up?

A. Yes, sir.

3rd x-int. At which end; and how near the end?

4th x-int. Nearest the forward end?

A. Yes.

A. At the forward end; and I think about one-fifth part of the barge fore and aft.

5th x-int. That is, you mean the end next to the barge Julia?

A. Yes, sir.

6th x-int. Was that part of the barge under water while the holes were bored?

A. No, sir; it was not; they were standing on the bottom of the barge boring the holes.

7th x-int. You say you saw the water come out?

A. Yes; I saw air and water come out together; some water come out of the holes, for there was some water in the hold of the barge. I could hear it make a noise, and see it too.

(Signed) JOSEPH MITCHELL.

Edward H. Garrigues.

The deposition of E. H. Garrigues, on behalf of the respondent, taken before Edmund T. Allen, a notary public, of St. Louis county,
274 Missouri, at the city of St. Louis, in said eastern district, on the 1st day of December, A. D. 1866.

Edward H. Garrigues, a resident of St. Louis, 47 years of age, lumber dealer, on oath deposeth and saith, in answer to interrogatories and cross-interrogatories, as follows, viz:

1st int. Were you in the city in April last?

A. Yes, sir.

2nd int. Do you know or did you know anything of the barge Anna that sunk down near the Naples packet landing?

A. I knew there was a barge there sunk. I didn't know anything about the name of it.

3rd int. Did you see that barge?

A. Yes, sir.

4th int. At what time did you first see it? or how did you first see it?

A. The first time I saw it was either in the latter part of April or in May. I am not right positive about the exact time, laying sunk. A small part of the after end of it—the down stream part of her was ashore; I don't know which end of her it was.

5th int. How much of it was out of water when you first saw it?

A. Well, I do not think there was more than 300 superficial feet of her bottom and her side. I don't think there was more than three squares, all told.

6th int. Did you see it afterwards?

A. Yes, sir; I have seen it since.

7th int. When was the second time that you noticed it? how long after the first time?

A. The second time I noticed it I went down and made an effort to try to get it into the river—turn it over. It was about the next day after I first noticed it.

8th int. Did you attempt to get it off? What efforts did
275 you make?

A. I never took hold of it; that is, we never got chains hold of it to attempt to move it, in consequence of the wharf-boat laying in the position that she did at that time.

9th int. Did you at any time see anybody at work to get it off?

A. I saw Mr. Mahaffey and others working at it; I don't know which way they intended to move it.

10th int. Did you notice it at that time?

A. Yes.

11th int. How much of it was above water at that time?

A. I think at the time they were working at it, probably there must have been $\frac{2}{3}$ of the inside visible—the starboard side if she were afloat—turned right side up.

12th int. Did you at that time see any breaks in the barge?

A. Yes, sir. I saw a slight break in the barge.

13th int. Whereabouts in the barge was that slight break?

A. It was in the lower edge of the barge, which would have been the upper edge, if it had been turned up.

14th int. Which side?

A. The starboard side; the side next the shore, in the position the barge was then laying.

15th int. Whereabouts as to the length of the barge was this?

A. It looked to me to be very nearly the middle, extending both ways from the middle. It may be possible it was a little nearer the end that was ashore, but as it looked there with the mud all over it I should think it was about the middle, both ways of the barge, from one end to the other.

16th int. What kind of a break was it as to size?

A. Two or three planks of the upper part of the barge were forced away from the main portion of the side.

17th int. What appearance did the break have?

276 A. It had the appearance of having been broken by a strain.

18th int. What kind of a strain?

A. A strain from the inside of the barge outwards. The plank were detached from the main portion of the barge, main outside of those that constituted the side of the barge, showing that there must have been a strain outward in order to produce that kind of a break.

19th int. How could such a break be produced?

A. A break of that kind might be produced in various ways. In the effort to turn the barge, over the gunwale might have been injured. It might have been injured by the barge laying heavily on that part, and sliding from the position it occupied, when the water was high, towards the river when the water was lower. It might have been easily done in that way.

20th int. How could it be done by attempts to turn over the barge?

A. I could have been done by an anchor being thrown over, which is a very common way of handling sunken wrecks, the flute taking hold of anything it attaches itself to, and a strain being made on it, as a matter of course if it is not sufficiently strong, it would be likely to break right there, where the anchor took hold.

21st int. How could it be done by hanging on the side of the hore?

A. If the angle was sufficient for the barge to slide at all from the position it occupied in the first place, the upper edge might have taken hold of the levee, and thereby have been broken.

22nd int. What effect would the falling of the water there be likely to have on a barge, situated as that was?

A. If the barge was floating at all, any part of her, the
277 falling of the water would cause her to take more of an angle, every foot that it fell, until she finally touched the bottom.

23rd int. Was the water high at that time?

A. The water was considerably higher, when I first saw the barge, than it was when I saw the barge last.

24th int. Could the break that you saw possibly have been produced, in your judgment, by a blow on the outside of the barge?

A. A break of that kind might be made by a blow on the outside of the barge, but the position that the broken part occupied with reference to the barge would almost necessarily compel a person to believe that it must have been broken from the inner side out-board. The top timbers were broken so as to pass one another partially, and the plank projected beyond the main body of the barge outward.

(Objected to by libellant as irrelevant, deponent not stating what barge this was.)

25th int. Did you know to whom this barge belonged?

A. No.

26th int. How near did it lay to the wharf-boat belonging to the Illinois River Packet Company?

A. The wharf-boat lay over a portion of the sunken barge when I first saw it.

27th int. What part of the barge was on the shore, the forward part or the after end?

A. I do not know which end of the barge it was.

28th int. Which end was it as to the stream, as to the river?

A. The part that lay on the shore was down stream. It was a model end; had a regular model. I don't know whether the other end was model or not.

29th int. Is there any way of distinguishing the ends of a model barge?

A. This was the bow of a model barge; frequently barges are built with both ends the same

278 30th int. Was this so?

A. I don't know.

(Libellant objects to all the foregoing on account of the barge, not being specified.)

Cross-examination.

By the libellant:

1st x-int. You know nothing personally about this barge?

A. I know the barge was sunk.

2nd x-int. You don't know how it came there, or what injuries it received; all these things are merely suppositions?

A. I believe I have testified that I knew she received injuries.

3rd x-int. All you know, you saw her laying under the wharf-boat?
A. I saw her injured, and saw the position she laid in.
4th x-int. But know nothing how she came there?
A. I didn't see her sink.
(Signed) E. H. GARRIGUES.

Charles Mahaffey.

The deposition of Charles Mahaffey, on part of the respondent, taken before Edmund T. Allen, a notary public of St. Louis county, Missouri, at the city of St. Louis, in said eastern district on the 7th day of December, A. D. 1866.

Charles Mahaffey, a resident of Johnson county, in the State of Mo.; 52 years of age, on oath deposeth and saith in answer to interrogatories and cross-interrogatories as follows, viz:

1st int. What is your occupation?

A. I have followed ship carpentering and wrecking pretty nearly all my life, and steamboating.

2nd int. Do you know where the Illinois River Packet Co.'s wharf-boat is?

A. Yes, sir.

279 3rd int. Where were you in April last?

A. I was here in the city of St. Louis, sir.

4th int. Do you remember having seen the barge Anna capsized down near the Illinois River Packet Company's landing?

A. I didn't see her capsize. I saw her after she was capsized.

5th int. State where she was when you first saw her?

A. She was between the Belle of Pike and the City of Pekin, laying kind of quartering—that is, she didn't lay straight with the current—anything that ain't straight with the current we call quartering.

6th int. Where was the City of Pekin and the Belle of Pike?

A. The Belle of Pike was laying at the upper gangway, on the wharf-boat, which would be what we would term the forward part as the boat lay up the river, and the City of Pekin was at the middle gangway of the wharf-boat.

7th int. And this barge Anna?

A. And this barge Anna laid quartering between the two, right under the bow of the City of Pekin.

8th int. What time was that about?

A. Well, I think it was between 10 and 11 o'clock in the day.

9th int. In what month?

A. It was in April, I think, about the 27th or 28th, somewhere about that time; I couldn't say to a day; something near that time. I couldn't say to a day.

10th int. Did you examine the barge?

A. Yes, sir; I did.

11th int. Did you go on to her bottom?

A. Yes, sir.

12th int. Well, state all you saw there, and what you did.

A. I went to the barge for to get a job of turning her over from Mr. Hancock. I told him what I would turn her over for, and
280 he told me he couldn't afford to pay it to me. He said he could get the Fisher for to turn her over, and it wouldn't begin to cost him that much. I say to Hancock, "How did this barge"—

(Libellant objected to deponent's stating his conversation with Hancock.)

13th. What did Hancock say to you?

(Objected to by libellant.)

A. I asked him for a job of raising the barge, as I stated before; he said he could get the Fisher to turn her over. I then asked him how the barge became sunk; he said the waves of the ferry boat sunk her.

14th int. How did she lay as to position?—I mean as to her bottom—how did did the bottom lay?

A. You could walk over $\frac{2}{3}$ of her bottom.

15th int. Did you examine the seams of that barge?

A. Yes, sir; I did.

16th int. Well, state what condition you found them in.

A. I didn't find no seam, but what would turn water in the barge. I didn't find no seams in that barge, but what would turn water.

17th int. What do you mean by turning water, being tight?

A. Yes, sir; whenever you can't take a knife-blade, and it will stop in the seam, it will turn water.

18th int. Did you see that barge again?

A. Yes, sir; I did.

19th int. When was the next time you saw her?

A. I saw her every day, I suppose from that on probably for ten days or two weeks.

20th int. Well, did you examine her again?

A. Yes, sir; I did.

21st int. When was that?

A. Well, that was probably four or five days after that.

281 22nd int. After the first time you saw her?

A. Yes, sir; I examined her, and made out a bill for raising her.

23rd int. How was she then? How did her bottom lay? How much of it above the water?

A. Then the bottom of her was very little out of water. They had got the bell-boat to take hold of her and pull the forward part of the barge out into the river, and dropped her down. At that time I don't know that there was more than probably 15 or 20 feet of the bottom then out. I was on the barge when the bell boat was working at her.

24th int. On the bottom you mean?

A. Yes, sir; on the bottom of her?

25th int. Well what was her condition then as to the seam s? Could you see the seams then, or any holes in her?

A. When the bell-boat was working at her, I saw no hole but what had been cut in her by the bell-boat or by others.

26th int. Where were those holes?

A. In the bottom.

27th int. What were they made by?

A. They were made in her to put chains and toggles in.

28th int. What were they made by—what instrument?

A. Some of them were bored, and some of them were cut in with an axe.

29th int. I understood you to say that you have had a good deal of experience in raising wrecking boats?

A. Yes, sir; I have been in that business.

30th int. What would have been the expense, in your judgment, of raising that barge when you first saw her?

A. Well, sir, I offered to obligate myself with security to raise her for $500.

282 32nd int. Would that have been a sufficient charge for that purpose at that time?

A. I considered so, sir.

33rd int. I understand you to say that you saw the bell-boat pulling at her.

A. Yes, sir, I think she worked at her; she commenced in the morning and worked till—I don't know what time at night she quit. I can't say, but she worked all day, I know.

34th int. To what portion of the boat were the chains or lines fastened at which the bell-boat was pulling?

A. At the part that laid up the river, what we would term the forward part of the boat.

35th int. Whereabouts was the fastening?

A. I suppose that they were probably—may be 10 or 15 feet from the stern of the boat.

36th int. Fastened to which side? starboard or larboard?

A. Well it was very near the kerlsen. I think if there was any difference, the way the barge lay there, would be on the starboard side, with the bottom up.

37th int. Do you know of any other boats pulling at her beside the bell-boat?

A. Yes, sir; the Belle of Pike, pulled at her, threw her anchor over, took hold of what we would call the starboard side of the boat, pulled the side out. I think it was probably three or four inches, maybe 25 feet in the length of the barge; pulled out what we call the chalk streak—the streak the beams were put.

39th int. To what particular part of the barge was the anchor fastened? To the side or bottom, or where?

A. The barge lay at the time pretty near straight with the current. She threw her anchor over about quartering, what we would call quartering on the barge, about what you would call $\frac{2}{3}$ of

283 the length of the b rge; I suppose 50 feet from the lower end of the barge; took hold of her then. They threw her anchor over and catched underneath on the side next the shore, as she lay bottom upwards at that time.

39th int. How did she fasten?

A. Well, they threw over the anchor, and the anchor hooked under the edge of the barge.

40th int. What do you call the edge of the barge, the part that was turned down at that time?

A. The combings; she hooked onto the combings, and pulled out.

41st i. Did they pull her out any?

A. No, sir; they didn't pull her out any.

42nd int. What effect would the pulling of the Belle of Pike, when the anchor was fastened to the combings, have upon the combings of the barge?

A. Well one or tother had to let go of the line or else she couldn't go any.

43rd int. I asked you what effect it would have on the combings of the barge?

A. If they had power enough they could pull the whole side out of her probably, as they would have pulled the whole side out her, if the anchor hadn't have broken. They broke the fluke of the anchor.

44th int. Did you notice whether there was any break of the combing, where the anchor had been fastened after the Belle of Pike had pulled on her?

A. No, sir; not just after the Belle of Pike had pulled, not until I went to pull on the barge myself. I noticed it then; it was then under water.

45th int. When did you go to pull at her yourself?

A. I went to work at her in July.

46th int. How did she lay then?

A. She laid kind of angling in the river.

47th int. All in the river?

284 A. No, sir; there was some, about from 80 to 90 feet of the side next the shore, out of water, and there was about 60 feet of the other side out of water.

48th int. What did you notice then as to the combings?

A. We noticed where the anchor had caught in and pulled the combing over.

49th int. Broke it, do you mean?

A. It just pulled the chalk streak, and what we call the bridging in the barge between the hatches, and pulled it over. It wasn't anything more than the chalk streak pulled off the top timbers.

50th int. Were the streaks opened?

(Objected to by the libellant as leading.)

A. That streak was opened, sir.

51st int. Upon what side was that?

A. Well if the barge had been turned over, it would be on the starboard side.

Cross-examination.

By libellant:

1st x-int. Where do you live?

A. Johnson co., Mo.

2nd x-int. What business are you engaged in there?
A. I own a farm there, sir.
3rd x-int. How long have you lived there?
A. I moved there the first of last May.
4th x-int. Where did you live before that?
A. On 18th street.
5th x-int. In St. Louis?
A. Yes, sir.
6th x-int. What was your business here?
A. I followed the river, and followed building boats or barges, wrecking, anything that I could get in that line to do.
7th x-int. What business were you engaged in on the river?
A. Carpenter.
8th x-int. On what particular boat?
Well, sir, I was on the steamboat Illinois, the Old Illinois.
285 I was on the steamboat St. Nicholas. I quit her and went on the Alek Scott; after I quit the Alek Scott, I went on the Edward J. Gay; after I quit the Edward J. Gay, I went back to the Alek Scott; I was on the Aleck Scott when the war broke out.
9th x-int. Regularly employed as a Carpenter on the boat?
A. Yes, sir.
10th x-int. You didn't remain very long on any one boat?
A. I was on the steamboat Illinois about 6 years. I was on the St. Nicholas pretty near 2 years. I was on the Edward J. Gay 18 months, and on the Alek Scott pretty near 3 years.
11th x-int. Last spring, in April, what boat were you engaged on then?
A. I wasn't engaged on any.
12th x-int. What business were you engaged in then?
A. I had just got done building some flat-boats for the Francis Fisher here; some 2 or 3 weeks, probably before that.
13th x-int. Did you build them here in St. Louis?
A. Yes; up there at Parker's saw-mill.
14th x-int. Did you have the contract for building them yourself?
A. Yes, sir. I did.
15th x-int. But at that time you were not engaged in any particular business.
A. No, at that time I was not engaged in any particular business.
16th x-int. Looking out for a job?
A. I was just looking out to see what I could find to do.
17th x-int. How long after that barge sunk was it that you saw her?
A. Well I don't think it could have been—she sunk in the morning, and I was down there between 10 and 11 o'clock, not
286 later than that. I didn't look at my watch. I didn't think it was later than that though.
18th x-int. City of Pekin and Belle of Pike both there at the time you were there?
A. Yes, sir.
19th x-int. What part of the wharf-boat was the City of Pekin tied up to? Whch gangway?

A. She was unloading at the midship gangway.

20th x-int. The middle gangway?

A. You may call it middle; we call it midships; we don't say middle on a boat or vessel, we say midships.

21st x-int. You speak in nautical phrases then?

A. Yes, sir.

22d x-int. How much of the barge was under water when you saw it?

A. Well, sir, I think there was about $\frac{2}{3}$ of her out of water; that is, the bottom of the barge I mean.

23rd x-int. How was she fastened?

A. She was fastened by a line and a chain made fast to the wharf-boat.

24th x-int. To what part of the wharf-boat? between the two boats?

A. No, sir.

25th x-int. Where?

A. She was made fast forward, what we call, what I would call the forward part of the wharf-boat, and that is the part that lays up stream.

26th x-int. Her lines run our the Belle of Pike or under the Belle of Pike?

A. No, sir; nary one?

27th x-int. Which way then?

A. The Belle of Pike was laying right up, with her stage rigged out over this barge.

28th x-int. Whereabouts with reference to these two boats or either of them, was that part of the barge that was under water?

A. The part of the barge that was down the river was under water.

287 29th x-int. Under where? Was it nearer to the Belle of Pike or City of Pekin, or under either of the boats?

A. The City of Pekin, I think, was laying on the knuckle of the barge. I think she was, at the time, in the forepart of the day.

30th int. On the knuckle of the barge?

A. Yes, sir; she had stages out also.

81st int. Do you know whether that was the afterpart or the forepart of the barge?

A. It would be pretty near midships of the barge.

32nd x-int. The middle of the barge, then, was under the City of Pekin?

A. No, sir; I think the middle of the barge was between the City of Pekin and the Belle of Pike.

33rd x-int. What do you mean by saying that the City of Pekin was across the barge about her midships?

A. Well, I think it might be a little one way or the other. I think about the middle of the barge would be between the two boats; she was about midships betweeen the two boats.

34th x-int. Midships between the two boats?

A. The midships of the barge. She was rather, if anything, up the river. I didn't measure to any exact length.

35th x-int. You said the barge was under the City of Pekin at her knuckles?

A. No, sir; I say she might have been on the barge's knuckles. I didn't say she was under the City of Pekin's knuckles.

36th x-int. I will ask you again, then, whereabouts was the portion of the barge that was under the water? Was it under either of the boats?

A. No, sir; the City of Pekin, as I stated before, might have been on the knuckle, run up a little on the knuckle of the
288 barge—what you might term the after end of the barge as she then laid bottom-side up—might have been probably a little aft, may be 20 or 30 feet, for anything I know. I could not say, but she had a stage rigged from her forecastle to the wharf-boat.

37th x-int. Which did, the City of Pekin?

A. The City of Pekin.

38th x-int. How much of the barge, then, was under water and under the City of Pekin, so that you could't see but $\frac{1}{3}$ or $\frac{1}{2}$ of it?

A. I don't think there was over $\frac{1}{3}$ of it under water.

39th x-int. Was the barge fast when you saw her on the day of the accident, or was she running about in the water?

A. She was fast, and she was yet afloat. She was made fast with a chain and a line, and was yet afloat, laying up floating around in the river; as the waves would come the barge would float.

40th x int. And you went on to the bottom while she was in that condition?

A. Yes, sir; I went on to the bottom of the barge.

41st x-int. Who was with you?

A. Mr. Hancock.

42nd x-int. That was about 11 o'clock?

A. No, sir; that was—well I did not look exactly at the time; that him and I was together on the bottom of the barge, but it was some time in the afternoon.

43rd x-int. Of the same day?

A. Yes, sir.

44th x-int. Had you been on her before during that day?

A. During that day?

45th x-int. Yes?

A. Well, I probably might have been on the barge some time; I can't say that I was or was not; I don't know distinctly whether I was or was not. It appears to me that she was one of the barges that I had raising the steamboat Laocoon. I ain't positive whether
289 she was or was not.

46th x-int. Were you raising a boat that day?

A. No, sir; I raised the Laocoon in August previous; last August was a year ago that I raised her, and delivered her to Mr. Hancock.

47th x-int. I want to know whether you were on that barge that was sunk during that day, previous to the time you went on with Mr. Hancock?

A. Yes, sir; I was.

48th x-int. Who was with you then?

A. I was with myself; went alone; went on the barge; looked at her all over myself.

49th x-int. You can answer the question whether there was any one that went on with you at that time?

A. No, sir; there was not.

50th x-int. What time of day was that?

A. That was, I think, about in the forenoon some time; probably it might have been 10 o'clock, maybe a little later. It wasn't 12 o'clock.

51st x-int. How came you to go on the barge?

A. Because I was looking for a job of work. Going up and down the levee, I heard she was sunk, and went to look for her to raise her.

52nd x-int. Did you see Mr. Hancock from that time until you went on the barge with him in the afternoon?

A. I saw Mr. Hancock in the morning.

53rd x-int. What time in the morning?

A. I suppose it was about 9 or 10 o'clock—somewhere along about that time.

54th x-int. Did you see Mr. Hancock between the time you first went on the barge and the time you went on with him in the afternoon?

A. Yes, sir; I saw him several times on board of the wharf-boat.

55th x-int. Did you have any business with him?

A. No, sir, I didn't; nothing more than asked him for a job of raising her.

56th x-int. Did you make any offer to him to raise that barge?

A. Yes, sir; I did.

290 57th x-int. How much did you offer to raise her for?

A. I asked him $500, sir.

58th x-int. Where was that?

A. That was right on the wharf-boat.

59th x-int. Who else was present?

A. There might have been some gentlemen present—I don't know that there was. I think there were two or three men there. I called him to one side and made him that proposition. There were two or three men bidding on it.

60th x-int. Who else was bidding on it?

A. There was a fellow by the name of Mike; I don't know what his other name is. He was a ship carpenter. He got the contract. I didn't get it.

61st x-int. What was Mr. Hancock's reply to you when you offered to raise her for $500?

A. He told me that he couldn't give me that money.

62nd x-int. Was that all?

A. He said he didn't have an insurauce on the barge; he couldn't give me that much money.

63rd x-int. Was that all he said in reply?

A. Well, he said, I think, that the ferry-boat sunk her, [the ferry-boat sunk her,] and he couldn't give me that much money.

64th x-int. That was all that he said, was it?

A. I believe that is as near as I can recollect.

65th x-int. Did he say that the ferry-boat sunk her in reply to your proposition to raise her for $500?

A. No; he didn't reply to my proposition at all. He said he couldn't give it.

66th x-int. That was all he said, then, in that conversation?

A. Yes; that was all the conversation him and I had that day, any more than when the Fisher went to pull out the barge.

67th x-int. Did he say anything at that time about any one else raising her?

A. No, sir; not in the presence of any person that I recollect.

291 68th x-int. About getting any one else to raise her?

A. Yes; he let her out to a man to raise; this man Mike.

69th x-int. Did he tell you in that conversation that he was going to let her out to this man Mike?

A. No.

70th x-int. Did he tell you he was going to get the Fisher to raise her?

A. No, sir; he did not; the only thing he said, he could get the Fisher to raise her a heap cheaper than he could get me to raise her.

71st x-int. That is something else, then, that you recollect of that conversation?

A. It was after.

72nd x-int. When was that?

A. After me and the other man went away. I was there on the wharf-boat in the evening for an answer, and he said he could get the Fisher a heap cheaper than he could me.

73rd x-int. I think you said he had given an answer when you first asked him?

A. No; he did not. I didn't say so.

74th x-int. Didn't he give you an answer?

A. No; he said he couldn't give me that money to raise her, but to come in in the evening; and I went in the evening.

75th x-int. Why didn't you say that before when I asked you if Mr. Hancock said anything more about it?

A. That was when I was going off the gangway; he told me to come in the evening for a reply. There were 3 or 4 of us bidding on her.

76th x-int. Were all those 3 or 4 present when Mr. Hancock told you to come back in the evening?

A. No, sir; I couldn't say that they were. I think that there wasn't any one present.

77th x-int. How long did you and Mr. Hancock stay on the barge in the evening?

292 A. Well, I helped Mr. Hancock with her in the evening until the Fisher went down against the Maria Denning. I helped them try to sweep a line under, and we didn't succeed in doing it. I then made a line fast and pulled her ahead; then I made another line fast to her to take her out into the current, and the Fisher swung down against the Maria Denning. We didn't have room to pull her ahead.

78th x-int. Was it then that this conversation took place about raising her?

A. This was in the forenoon, and part of it in the afternoon. We didn't have any conversation when the Fisher was pulling at her, any more than I helped him. He told me to help him, and I helped him.

79th x-int. Didn't you say you proposed to Mr. Hancock on that barge, whilst you and he were on the barge in the afternoon, to raise the barge for $500?

A. Yes, sir; that was before the Fisher ever touched her.

80th x-int. Now, I ask you how long you and Mr. Hancock stood on the barge at that time?

A. Well, now, I can't tell you exactly; we might have been on the barge maybe twenty minutes, maybe over; I don't recollect. Mr. Hancock asked me to examine the barge. I done so. We might have been there twenty minutes, and we might have been over that.

81st x-int. That is something new again. He asked you to examine the barge, did he?

A. Yes; and I done so.

82nd x-int. What examination did you make?

A. Took my knife out of my pocket, and examined all the seams.

83rd x-int. That is of that part of the barge that was exposed?

A. Yes; you could walk all along the barge.

84th x-int. That was out of water?

A. Yes, sir; and I found no trouble with her.

293 85th x-int. Did Mr. Hancock assist you in that examination?

A. No; he did not.

86th x-int. Where did he remain?

A. He was right alongside of me.

87th x-int. He looked at you then while you were making the examination?

A. Yes, sir; he looked at me.

88th x-int. The whole of the barge was in the water at that time; there wasn't any of the barge on the land?

A. Yes; she was laying bottom side up; we were walking on her bottom.

89th x-int. How deep did she go into the water?

A. I think when I first saw the barge she was about a foot, or probably 18 inches—from a foot to 18 inches—out of water, of the bottom of the barge.

90th x-int. You saw Mr. Hancock again that evening after you left the barge?

A. After I went away in the forenoon I staid there some little time. I was down there at the barge. I think I came along some time in the afternoon, and was there when the Fisher came to pull at her. Mr. Hancock asked me to assist them and I done so; tried to put a line around her, and didn't succeed to do it.

91st x-int. When did he finally tell you that he couldn't engage you to raise her?

A. He never told me he couldn't employ me; he never gave me any definite answer about it.

92nd x-int. Did you see him any more that afternoon after you made the effort with the Fisher to get her out?

A. It was then night; it wasn't afternoon at all, it was night.

93rd x-int. You didn't see him any more after that?

A. No more that night.

94th x-int. When was it he told you to call and get the definite answer?

294 A. He didn't tell me that at all; he told me to come back in the afternoon.

96th x-int. You did go back?

A. Yes.

96th x-int. Was that the time you assisted him with the Fisher in getting her out?

A. I was there when the Fisher came.

97th x-int. How long after that time was it before you saw this barge again?

A. I think I saw her the next day.

98th x-int. How did she lay then?

A. She laid pretty near straight with the current, right alongside the wharf-boat.

99th x-int. How much of her out of water then?

A. I think, to the best of my recollection, there was over $\frac{2}{3}$ of her out of water.

100th x-int. When did you see her again after that?

A. I think I saw her every day after that for 8 or 10 days.

101st x-int. Did she still remain in the same position?

A. No, sir.

102nd x-int. When was her position changed?

A. Mr. Hancock got the bell-boat for to pull the forward part of her out into the river, as she lays now, to what we term the larboard. He pulled her out into the starboard, quartering out into the river.

103rd x-int. You were there when he made the effort to pull her out with the bell-boat?

A. I was on the wharf-boat; yes, sir.

104th x-int. You saw the whole operation?

A. No, sir; I did not.

105th x-int. How long did you remain there?

A. I might have remained there an hour, probably longer than that. I don't know; I am not positive about what time.

106th x-int. Well, after the bell boat had charge of her, what position was she left in then?

A. When the bell-boat first took hold of her she was laying pretty near straight with the current. The bell-boat put her very

295 near quartering with the current.

107th x-int. How was she fastened after the bell-boat left her?

A. Well, I don't think she was fastened with anything but a little small chain to the lower end of the wharf-boot; a small chain.

108th x-int. Was she still as much out of water as she was at first?

A. No, sir.

109th x-int. How much of her was left out of water?

A. There wasn't very much left out of water when the bell-boat left her. The river had raised some, some 18 inches, maybe two feet.

110th x-int. When was it that the Belle of Pike tried to pull her out?

A. Well, I can't say positively whether it was the second or third trip that she made after the boat sunk; I couldn't say positively.

111th x-int. Was it a week after she sunk?

A. Well, it might have been; I don't think it was a great deal over that; it might have been 2 or 3 days; I couldn't say positively.

112th x-int. What part of the barge do you call the combings of the barge?.

A. That goes around the hatches, where a barge has got an open hold.

113th x-int. When the barge is afloat how near are the combings to the top of the barge?

A. It is pretty near midships of the barge. There may be two feet or three feet of gangway, and then there is the combings, what we call the combings for the hatches.

114th x-int. That is near the middle of the barge?

A. No, sir; it is from two feet to two and one half feet from the gunwale of the barge; what we call the side.

115th x-int. About two feet and a half from the side then?

A. Yes, sir; something like that; sometimes they put them
296 more sometimes not that much. I have built barges when I only put them 18 inches.

116th x-int. To what are the combings fastened?

A. They are just pieces of timber halved together, probably 6 to 8 inches wide; just halved together, put around, and then short beams cut into them, probably an inch and a half.

117th x-int. And these beams extend across the barge?

A. No: not when the combing is in there. These little short beams are 18 inches or two feet; just whatever the combing comes from the side of the barge.

118th x-int. Do you know what kind of a deck that barge had?

A. I think she had 4 open holds; 4 hatches in her.

119th x-int. How wide was the gangway round the sides of the barge?

A. It might have been two feet, it might have been more; I don't know.

120th x-int. The combing is inside of that gangway, isn't it?

A. Yes, sir.

121st x-int. Well, was that the place where the Belle of Pike fastened her anchor?

A. No, sir; she didn't get quite to the combing. I think it was by

the way the barge lay from where the fluke of the anchor went in, some 8 or 10 inches from the combing; she pulled the combing in board.

122nd x-int. Where did the anchor go in, through the gangway?

A. No; it went through the decks.

123rd x-int. How far from the side of the barge?

A. I think about a foot or 18 inches; I didn't exactly measure it; I can't say positively; it might have been a little more or a little less.

124th x-int. Were you there at the time the Belle of Pike made that effort to pull her out?

297 A. I came along just as the Belle of Pike let go.

125th x-int. Did she turn the barge over?

A. No.

126th x-int. You were not there while the operation was going on?

A. No; I got there just as she was hauling the line over the barge?

127th x-int. The deck of the barge remained under water whilst this operation was going on by the Belle of Pike, didn't it?

A. Yes.

128th x-int. Did you make any examination of the barge after the Belle of Pike left her?

A. Not at that time.

129th x-int. How long afterwards?

A. In July I got a contract from the harbor master to remove the barge. I dug the barge out; dug a heap of mud from under her, and pulled her some 12 feet in end. I dug the mud away, and I found where the fluke of the anchor went through the deck.

130th x-int. It made a hole in her deck, did it?

A. Yes, sir; went through.

131st. x-int. Were the deck planks removed from their positions?

A. They were hauled in towards the shore side of the barge.

132nd x-int. Was any part of the anchor that was broken off in the deck at the time you saw it?

A. No, sir; we did not find it.

133rd x-int. You saw the hole where it went through?

A. Yes, sir; we found the hole where it went through.

134th x-int. How do you know it was broken off?

A. The mate told me so.

135th x-int. You didn't see it yourself?

A. No, sir; I didn't see it.

136th x-int. How much were the planks moved by the anchor?

A. I think they were pulled about probably the width of your hand; probably about 5 inches, maybe not more than 4 inches.

298 137th x-int. That would move the other planks too, wouldn't it?

A. They pulled the sides of the barge; I never did exactly measure it; I worked round her a good while too—about 5 inches. I think it was 20 to 25 feet—I dont think it was much over that or under it much—pulled it out about 4 or 5 inches; pulled the sides of the deck

and barge and all right over; pulled the beams that went across on the barges from one side, and pulled the planks off the top timbers on the other side, so that you could put your hand in.

138th x-int. You mean the top timbers of the side of the barge?

A. Yes; what we called the chalk streak; pulled that streak off the top timbers, some 4 or 5 inches, not over that.

139th x-int. Who employed you at the time you were undertaking to remove the barge?

A. The city gave me a contract to take the barge away from there.

140th x-int. Did you take it away?

A. No, sir.

141st x-int. Why?

A. Because I couldn't; I couldn't get her away whole, and I didn't want her.

142nd x-int. You found then you were mistaken in your proposition to raise her for $500?

A. That was in April; I didn't get a contract to raise the barge until July; she was then full of mud.

143rd x-int. You don't think now that she could have been raised for $500?

A. Yes, sir; when she first sunk, I do.

144th x-int. The bell-boat couldn't raise her, the Belle of Pike couldn't raise her, but you think you could have raised her at that time?

A. Well, I offered security to raise her; yes; I think I could have raised her at that time, because there was no mud in her.

135th x-int. How much did you get for your contract with
299 the city?

A. I didn't get anything, sir; I was to have the barge for taking her away from there.

146th x-int. And you found you couldn't do it?

A. Yes, sir.

147th x-int. Did you come down here to give your testimony in this case?

A. Well, sir, I believe I came from Johnson county here.

148th x-int. At whose request?

A. I was telegraphed for by Capt. Campbell to come to the city of St. Louis; that he wanted me.

149th x-int. Did Mr. Francis write for you to come?

A. I believe the dispatch said Mr. Francis wanted me; to the best of my knowledge I think it did.

150th x-int. He paid your expenses down here?

A. The dispatch didn't say anything about that.

151st x-int. Is there no agreement between you and Mr. Francis about the payment of your expenses while here?

A. He never told me anything about it.

152nd x-int. There has been no agreement between you and Mr. Francis about it?

A. He never said anything to me about it. I didn't see him be-

fore I came here, and the dispatch didn't say anything about it. I can show you the dispatch if you wish to see it.

153rd x-int. How long since you quit business on the river?

A. I hain't steamboated of any account since the war broke out.

154th x-int. You had known Mr. Hancock, I suppose, before this accident to the barge?

A. Yes, sir; I have known Mr. Hancock.

155th x-int. All you know about this anchor being used by the Bell of Pike is what you were told by others?

A. Yes; all I know is what they say, and what I saw where the fluke of the anchor went through the barge, went through the deck.

300 *Re-examination.*

By respondent:

52nd int. I want to ask you what was the difference in the situation of the barge when you first saw her, after she sunk, and her situation when you went to pull her off, or remove her?

A. Well, the difference between the barge, when I made the proposition to Mr. Hancock, and when I made the proposition to the city, was 10 to one; more than 10 to one.

53rd int. What was the difference?

A. The difference would have been over $3,000.

54th int. I mean the situation?

A. The barge laid straight with the current, when I first made the proposition to Mr. Hancock, and she laid quartering full of mud afterwards. It had been pretty near three months; and in this river a boat sunk will fill up full of mud.

55th int. Was she afloat when you took the contract with the city?

A. No.

46th int. How did she lay?

A. She laid, as near as I could find out I went 26 feet under water, and she was then on the bottom. I went to the bottom of the river myself.

57th int. Was either end of her on shore when you took the contract with the city?

A. Yes, sir; I think there was about $\frac{2}{3}$ of her out.

58th int. How did she lay?

A. She laid quartering out in the river.

59th int. How did she lay on shore, as to the shore?

A. She laid—I think the upper gunwale was some 40 or 50 feet laying along the wharf, on the wharf.

60th int. Was she still bottom side up?

A. Yes, sir; still bottom side up.

61st int. Do you know of any other person pulling at her
301 besides the Francis Fisher, the bell boat, the Belle of Pike, and yourself?

A. I don't know; I think, to the best of my recollection, that the Gartside, from what I was told, made a pull at her; whether she did or did not, I can't say; I don't know positive.

John A. Bruner.

The deposition of John A. Bruner, on part of the respondent, taken before Edmund T. Allen, a notary public, of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the 1st day of December, A. D. 1866.

John A. Bruner, commander of the Alton packet, 44 years of age, steamboat captain, on oath deposeth and saith, in answer to interrogatories and cross-interrogatories, as follows, viz:

1st int. How long have you been on the river?

A. Twenty-odd years.

2nd int. During that time, what kind of boats have you navigated?

A. From the largest to the smallest kinds. I have'nt been on as large a boat as the Ruth.

3rd int. What rivers have you navigated?

A. The Illinois, the Mississippi, the Missouri, and the Arkansas.

4th int. Have you navigated tow-boats at any time?

A. I have, for upwards of seven years; I made that a specialty for 7 years.

5th int. Are you familiar with the towing of barges?

A. If seven years' experience at the business gives a man a familiarity with it, I am familiar with it.

6th int. Have you had experience in landing barges?

A. I have.

7th int. Do you know the weight of a bushel of corn?

A. 56 pounds.

8th int. Do you know the weight of a bushel of oats?

A. 35 pounds.

302 9th int. What is the weight of a bushel of wheat?

A. 60 pounds.

10th int. What is the weight of a barrel of pork?

A. It varies a little. I think 320 to 330; probably 325.

11th int. What is the weight of a barrel of high wines?

A. They probably average about 350.

12th int. What is the weight of a bag of corn—a usual bag?

A. A bag of corn will average two bushels and a quarter, at 56 pounds a bushel; you can make that calculation to suit yourself.

14th int. What is the weight of 3,865 bushels of corn?

A. You will find it in a memorandum that I have made, where I have made it on this paper, 216,450 pounds.

15th int. What is the weight of 8,412$\frac{1}{5}$ of oats?

A. 35 pounds to the bushel would be 294,427 pounds.

16th int. Twenty-five bushels of wheat?

A. Sixty pounds to the bushel, 1,500 pounds.

17th int. 100 barrels of pork?

A. 330 pounds to the barrel, making 33,000 pounds.

18th int. 50 barrels of high wines?

A. 17,500 pounds.

19th int. How much do all these items amount to?

A. 562,877 pounds.

20th int. How many tons in that number of pounds?

A. The figuring that I have made makes 281 tons 877 pounds.

21st int. If a barge had the number of pounds of corn and oats, and the number of barrels of pork and high wines that you have named, it would have that amount of freight?

A. Yes, sir; it would have 281 tons 877 pounds.

22nd int. I will ask you this question: Suppose, in a high state of water at the port of St. Louis, a barge heavily loaded was
303 lying on the upper side of a steamboat, fastened to the Illinois packet landing, and the barge was laying along near the wheel of the boat, what would be the effect of the current on a barge so situated?

A. Provided it was laying broadside or quartering to the current, or in a straight line with the current?

23rd int. Both?

A. In laying along straight with the current, it would have no bad effect on it at all, sir.

24th int. Suppose it was laying quartering or across the current, what effect would it have?

A. It would have a tendency to settle on the upper side, provided it was laying against the fenders of a steamboat or another barge. The force of the current on the lower side or bottom of the barge, the other side hanging by the mere top against the fenders of a steamboat would have a tendency to sink the upper side.

25th int. Would you consider it a safe position for a barge heavily loaded, if the barge was fastened to a steamboat—the upper side of a steamboat—and laying across the stream, and in proximity to where other boats would pass up and down in a high stage of water, where the barge was out in the stream?

A. I should consider it a very unsafe position for a barge to be placed in that was heavily loaded.

26th int. Would not a barge so situated be constantly liable to be capsized, either by the current itself, or by the waves from other boats passing along?

(Objected to by libellant.)

A. That constant wouldn't be a great while, for I consider it so unsafe that even the passing of one steamboat would throw the swell on the barge, the weight of that water bearing the barge down, so much so, that the current would run over the barge and cap-
304 size her in a very short space of time. I say this from my experience. I have been towing about St. Louis so much, and landing barges, that I know the effect the current has on barges laying against a steamboat outside.

(Signed) JOHN A. BRUNER.

W. A. Scudder.

The deposition of W. A. Scudder, on part of the respondent, taken before Edmund T. Allen, esq., a notary public, of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the 26th day of November, A. D. 1866.

W. A. Scudder, deposeth and saith, in answer to interrogatories and cross-interrogatories, as follows, viz:

1st int. State your residence, age, and occupation.

A. I reside in St. Louis, and am clerk or agent of the Madison County Coal Company. I am 25 years of age.

2nd int. What was your business in April last?

A. I was clerk of the same company; the same as I am now.

3rd int. What boat were you on about the last of April?

A. I am on shore part of the time; I am not on any boat. I am clerk of the company. I am aboard of the Fisher part of the time, and part of the time on shore.

4th int. Do you know anything about the barge Anna? Did you see or hear anything about her?

A. Yes, sir.

5th int. About what time?

A. About the 30th day of April.

6th int. If you saw the Fisher landing on the morning when she was laying there about that date, state what you did see.

A. I was on the Fisher when she came down to the Belle of Pike to land a barge of coal there. I was out on the guards—the upper guards of the Fisher—when she commenced rounding to in the
305 river to land the barge. It was, perhaps, within 100 yards of the Belle of Pike.

7th. int. When she commenced rounding to?

A. Yes; that was when I was out there; I don't think she was nearer than that; and I was inside after that in the office.

8th int. You went into the office after that?

A. Yes.

9th int. She was within 100 yards of the Anna when you went in, was she?

A. Yes, sir.

10th int. Did you see the Fisher land?

A. I was not outside when she landed; I did not see it.

11th int. You were in the office when she landed?

A, Yes.

12th int. Then you don't know, of your own knowledge, how near you came to her, or how you landed?

A. No, sir.

13 int. Did you see Mr. Hancock on the barge as you came up?

A. I didn't notice.

14 int. Did you see the Fisher backing out?

A. No, sir.

15 int. When did you next see the barge Anna?

A. I should think about an hour afterwards.

16 int. What were you doing when you saw her?

A. I was on the wharf-boat.

17th int. An hour after you landed, you say?

A. The Fisher landed and went away; then we came back there again, I should think half, it might have been three quarters, of an hour after that, and I went ashore when we landed at that time; that was after the barge had sunk; then I went ashore, and went over on to the wharf-boat.

18 int. Had the barge Anna sunk before the Fisher left the first time?

A. No, sir; the Fisher didn't stay there; she wasn't at the landing there over three minutes, when she landed there the first time.

19th int. Now state if you noticed the City of Pekin when
306 the Fisher came before she landed the first time, and state when the Pekin went in, and where she was, with reference to the wharf-boat.

A. I saw the Pekin; she lay just at the stern of the Belle of Pike, apparently with the end of her bow under the stern as far as she could get in without pulling the Belle of Pike out.

20th int. That was when you came up the first time?

A. Yes, sir.

21 int. Where did you see her after she got out? when did you see her? and where was she?

A. I saw her when we landed there the 2nd time; I went over on to the wharf-boat, and on to the Pike; she was up against the Belle of Pike, at the middle gangway of the wharf-boat, discharging.

22nd int. That was about how long after the Fisher had backed out on the first trip?

A. Well, I should think an hour.

23 int. Did you notice the position of the Belle of Pike before the Pekin got in?

A. Yes, sir.

24 int. Well, state what it was, with reference to the current or river, and the Naples' wharf-boat.

A. Well, I should think the Pike laid perhaps 45 degrees to the current, before the Pekin got in.

25 int. Will you look at this diagram (exhibit marked A,) and say what you have to say, in regard to whether in your judgment, that is correct or otherwise; that is just before the Pekin got in?

A. I should think that was a correct representation of the position of the boats, barges and wharf-boat.

26 int. Is this the position of those boats, barges and wharf-boat, at the time you came in with the barge above the Julia?

A. That is correct at the time we landed there the first time.

307

308 [Here follows "Exhibit A" accompanying deposition of Wm. A. Scudder.]

309 [Here follows Exhibit B, annexed to deposition of Wm. A. Scudder.]

310

311 27 int. And at the time you went out the first time?

A. Yes, sir.

28th int. Now if you noticed the relative positions of the Pike, the Pekin, and those barges, after you came back, state what, if any, change was made.

A. The Pekin had got in to the wharf-boat, when I came back there, and in doing so she had pressed the stern of the Pike up against the current, as much as her width, at any rate; perhaps more.

29th int. What position would that place her in with reference to the current?

A. It would throw her, I should think, 60 degrees to the current.

30 int. What do you say about that diagram, (hereto annexed, and marked exhibit "B"?)

A. I think this represents the position of the boats as I saw them when I came back there the second time, with the exception of this barge Anna, which was then sunk.

31 int. Do you know the width of the Pekin?

A. No, sir.

32 int. After the Anna sunk state what position she was in with reference to the Pike; that is after she swung round and went under.

A. I could see one end of the barge between the bow of the Pike and the city of Pekin; I stood on the bow of the City of Pekin, and looked straight down, and there was the stern of the barge.

33rd int. Under the Pike?

A. I couldn't have seen it if it had been under the Pike; it came through from under the Pike, so that I could see the stern of the barge.

34 int. Was it under?

A. It was under.

35 int. How much could you see of the barge Anna? how many feet?

A. Oh, I should think 15 feet, perhaps more; 15 or 20 feet.

312 36 int. Now where did the stern of this sunken barge come, with reference to the wharf-boat?

A. Do you mean how far from the end of the wharf-boat?

37 int. I mean how far from the wharf-boat, from the side of the boat, and how from the bow; about how far?

A. I don't know that I can judge of the length of the wharf-boat: the barge, I should think, was not over five feet from the side of the wharf-boat.

38th int. Can't you judge how far from the end, the upper end, of the boat?

A. I don't know that I know the length of the wharf-boat; I should say it was nearly one-third of the distance; one-third of the length of the wharf-boat; it came up between the Pike and the Pekin, so that you could stand on the wharf-boat and see the end of the barge, between the Pike and the Pekin; I don't know the length of the wharf-boat well enough to judge.

39 int. How far was the stern of the sunken barge above, if above, the middle gangway through which the Pekin was unloading, as you stated?

A. It was not over 8 or 10 feet above. There are three landings at that wharf-boat, one at each end, and one in the middle.

40 int. Have you ever done any boating?

A. Not until I came here, two years and a-half ago.

41st int. Do you know Mr. Hancock?

A. Yes, sir.

42 int. Now state, if any, what conversation you had with Mr. Hancock, with reference to this occurrence, or the sinking of this barge, and when you first saw him after the sinking?

(Objected to by libellant as incompetent.)

A. I can't state when I saw Mr. Hancock after the sinking. I can state when he first mentioned to me anything about the
313 occurrence of the sinking of the barge; it was on Monday that the barge sunk, and it was the following Saturday that I went into Mr. Hancock's office, and presented drafts there. He didn't say anything about the sinking of the barge then; he merely put off the payment of the drafts, and told me to come in again next week. I went in again a week from that Saturday and presented the drafts for payment; then Mr. Hancock says, "I have a bigger bill than this against you." I asked him what it was, and he said it was for the sinking of his barge. I think that was all the conversation I had with him at that time, with reference to the sinking of the barge.

43 int. Did you have any other conversation with him in reference to the sinking of the barge?

A. Yes, sir; I had another conversation with him on the levee; I don't remember how many days after that. Some time after, I asked Mr. Hancock if he really thought that the Fisher had anything to do with the sinking of his barge. He said he didn't know, but he didn't see how it could be otherwise. I don't remember anything else at that time.

44 int. State if Mr. Hancock told you anything in reference to his examination of the barge Anna, and there being water there or otherwise, in any conversation, and state when and where.

(Objected to by libellant.)

A. It was after this first conversation which I had. I couldn't state the date, but it was on the levee. He stated that he examined the barge closely after the Fisher went away, and that he went up to his office satisfied, and that he didn't know that the barge
314 was sunk, until his watchman came up and told him half an hour afterwards.

45 int. You have no interest in this suit?

A. No, sir.

Cross-examination.

By libellant:

1st x-int. Did the Fisher belong to the Madison County Coal Co. last spring?

A. Yes, sir.

2nd x-int. You were on board the Fisher when she came into the port of St. Louis, in April last?

A. No, sir.

3 x-int. What boat were you on?

A. I was on no boat.

4 x-int. Where were you?

A. I was on shore; I live in St. Louis.

5 x-int. Whereabouts on shore?

A. On the levee, somewhere.

6 x-int. Did you see the Fisher on the 30th of April last?

A. I did.

7 x-int. When did you see her?

A. I saw her in the morning; went on board of her in the morning.

8 x-int. What time in the morning?

A. I should think about 7 o'clock, as early as that.

9 x-int. When did you see her again?

A. I was on board of her part of the forenoon.

10 x-int. What time?

A. I stated I went on board of her about 7 o'clock in the morning. I saw her all the time. I was on board of her. I saw her all day, for that matter. I go on board off and on.

11 x-int. When did you go on board the Fisher, after the first time you saw her?

A. I don't know that I could remember. I go on board a dozen times a day sometimes.

12 x-int. I understood you to say that you went into the office about the time the Fisher was within 100 yards of the Belle of Pike.

A. Yes, sir.

13 x-int. Where was that office?

315 A. The office on board the boat, the office of the boat. I was on board the boat at the time.

14 x-int. Then you were on board the Fisher when she came into port at the time this accident happened?

A. I was not on her when she came into port. I got on her in St. Louis that morning.

15 x-int. Where were you when the Fisher landed the coal-flat at the Julia?

A. I was on board the boat, in the office of the boat.

16 x-int. You went into the office when the Fisher was within 100 yards of the Belle of Pike, I think you stated?

A. Yes, sir; I was on the guards when she was within 100 yards, and then I went into the office.

17 x-int. Did you remain in the office until after the Fisher backed out from the port?

A. Yes, sir.

18 x-int. Where was the Fisher when you came out of the office again?

A. I wouldn't be certain where she was, at just what point she was. She went immediately from the Pike up near the elevator to the steamer Tiber.

19 x-int. Did you come out of the office before she got up to the Tiber.

A. Yes, sir.

20 x-int. How far were you from the Belle of Pike when you first came out of the office?

A. I should think it was near the Memphis wharf-boat; that is, about $\frac{1}{3}$ of the distance between the Pike to the elevator.

21 x-int. Can you say how far up the river?

A. No, sir; I don't know the distance.

22 x-int. Can't you say about how far?

A. I don't know how long the levee is; I am no judge.

316 23 x-int. Do you know how far it is from the Naples Packet landing to the elevator?

A. No, sir.

24th x-int. You couldn't say whether you were fifty, one hundred, or two hundred yards from the Belle of Pike when you came out of the office?

A. I could say that I was more than 50, more than 100, and more than 200.

25th x-int. You didn't come out of the office of the Fisher then whilst she was landing the coal barge at all?

A. No, sir.

26 x-int. What were you doing in the office?

A. Writing.

27 x-int. Did you look out of the office whilst you were in there, whilst she was landing the barge?

A. No, sir; I don't think I did after I went in as I stated.

28 x-int. You don't know then what position the Belle of Pike occupied at the wharf-boat when the Fisher came in?

A. I know what position she occupied when I was out on the guards, which was when the Fisher was within 100 yards of the Pike. I could see the position very plainly from the Fisher at that distance.

29 x-int. You think then she was about 45 degrees to the current?

A. Yes, sir.

30 x-int. After the Fisher left, how long before you came back to the Naples wharf-boat?

A. I think half or three quarters of an hour.

31 x-int. And you think in that time the Belle of Pike had changed her position about 15 degrees?

A. Yes, sir.

32 x-int. This diagram, marked "A," represents the condition of the boats at the landing at the time the Fisher came in, does it?

A. Yes, sir.

317 33 x-int. How did you know that this barge that you have marked Mississippi Valley Transportation Company belonged to that company, at the distance of 100 yards from the wharf?

A. I might not have known it then. I was on the wharf-boat several times afterwards that day; was there afterwards looking at the barge that was sunk.

34 x-int. Was that barge there after you came back with the Fisher, after the sinking of the barge Anna?

A. I think it was; I won't be positive about the barge.

35 x-int. How far is the Johnsonville Co.'s wharf-boat from the Naples' wharf-boat?

A. Why, I should think it might be 60 feet.

36 x-in.. When you returned in the Fisher after this accident took place, was the City of Pekin still at the wharf?

A. She was at the wharf; yes, sir.

37 x-int. Was she discharging her freight?

A. Yes, sir.

38 x-int. At which of the landings or gangways of the wharf-boat was the City of Pekin discharging her freight?

A. The middle landing.

38 x-int. Was there any boat between the City of Pekin and the lower end of the wharf-boat at that time?

A. I could not say positively whether there was any boat or not; I think there was a boat.

40 x-int. A steamboat or a barge?

A. I think there was something between the Maria Denning and the City of Pekin; whether it was a steamboat or this barge, I would'nt be positive.

41 x-int. How long after this accident to the barge Anna was it, that Mr. Hancock told you had a big bill to present against your company?

A. The accident was on Monday, and it was a week from
318 the following Saturday, nearly two weeks.

42 x-int. At that time you had seen him but once since the acccident?

A. I didn't say that.

43 x-int. I ask you that.

A. I think I had seen him a great many times. I think I saw him nearly every day.

44 x-int. Did you see him on business more than once in that time, or nearly passing?

A. I had seen him on board his boats; I didn't go into his office on business, I think, but the twice I mentioned, the two Saturdays.

45 x-int. How long after these two conversations that you had with him was it that you had this conversation with him on the levee?

A. I couldn't say exactly as to the time.

46 x-int. You have spoken in your examination of but 3 conversations; the first he said nothing about the boat, the second when he said he had a bill for the loss of the boat, and the third when you met him on the levee; now how long after the 2nd conversation was this one you had with him on the levee?

A. I don't think it was more than 2 or 3 days.

47 x-int. Did you have any business with him at the time of this last conversation you speak of?

A. No, sir; I met him on the levee. I think I had some talk with him about the payment of those drafts which I had on the company, which was the reason our conversation came up.

48 x-int. And he said he enquired into the matter and was satisfied?

A. Yes, sir.

319 49 x-int. That was all he said abou tthe Anna at that time?

A. I don't know; that is all that I remember. He didn't say he enquired into the matter at all. He said he had been there himself on the barge and examined it, and went back to his office.

50 x-int. He said he had been on the barge and examined the barge, and then went back to his office, is that what you mean to say?

A. Yes.

51 x-int Is that all that passed between you in reference to the barge, at that time?

A. I think it was at that time.

52 x-int. Those were all the conversations that you had with Mr. Hancock in reference to the barge, those that you have spoken of?

A. No, sir; I would'nt swear that they were all the conversations. I think I have talked with Mr. Hancock about it a great many times, but there is nothing I can recollect especially.

53 x-int. At this last conversation, did you say anything about the barge to him first—about the barge Anna?

A. I think I asked him the question, which I stated in the evidence, if he really thought that the Fisher had anything do do with sinking this barge. I think that was the question I asked him.

54 x-int. What was his answer?

A. He stated he did'nt know,—he did'nt know how it could be otherwise.

55 x-int. That was in the last conversation that you spoke of?

A. Yes; in the conversation on the levee.

Re-examination.

By the respondent:

46 int. You were asked how often you saw Mr. Hancock. I
320 want you to state whether you go on "change," and whether you don't see him there?

A. I go on "change" nearly every day, almost every day.

47 int. Would you see him there usually?

A. I don't recollect any special times of seeing him there. I see him almost everyday.

(Signed) W. A. SCUDDER.

Cyrus T. Francis.

The deposition of C. T. Francis, on part of the respondent, taken before L. L. Walbridge, esq., a notary public of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the twenty-sixth day of November, A. D. 1866.

Capt. Cyrus T. Francis; 55 years of age; residence St. Louis; superintendent of Madison County Coal Company, deposeth and saith in answer to interrogatories and cross-interrogatories, as follows, viz:

1st int. Where were you in April last?

A. In St. Louis.

2 int. Where were you on the day the Fisher landed a coal-flat for the purpose of coaling the Belle of Pike, near the Illinois river Packet Company's landing?

A. I was on the steamboat Fisher sometime in the morning, after the barge was sunk, or said to be sunk, (but I cannot recollect how long,) and I heard them speaking on the Fisher of the barge sinking.

3 int. About what time of day was this?

A. I don't recollect the time of day; it might have been 11 or 12 o'clock. Sometime after that I went down to the Illinois River Packet Company's landing, and went aboard the wharf-boat, in order to see the barge that was sunk. I think I looked on the outside of the
321 Belle of Pike in the first place, hearing the barge was sunk there, and not seeing it went round on the wharf-boat.

4 int. Did you see the sunken barge?

A. Yes, sir; I went on the steamboat lying under the Belle of Pike up at the middle gangway, went on the forecastle deck, and could see the end of this barge sticking out from under the Belle of Pike, laying up near the wharf-boat between the Belle of Pike and the bow of the boat I was on.

5 int. What boat was that you were on?

A. I cannot state positively, but suppose it must have been the City of Pekin.

6 int. Whereabouts was the City of Pekin fastened (or the boat you were on) to the wharf-boat?

A. This boat I was on was about the middle gangway of the wharf-boat.

7 int. Did you have any conversation with Mr. Hancock at that time.

A. No, sir.

8 int. Did you see Mr. Hancock at that time?

A. No; not at that time. I saw Mr. Hancock sometime the next day, about 3 o'clock,—I judge about 3 o'clock—when the Fisher came down there, on coming down with coal.

9 int. The next day?

A. Yes, sir. Mr. Hancock was standing on some boat near the wharf-boat and called to the Captain of the Fisher to take hold of the barge to try and pull it out.

10 int. That was the next day?

A. Yes, sir. Capt. Irons, the captain of the Fisher told him he could not do it, for he was down so late that he could'nt pull out his boat.

11 int. What other remark did Mr. Hancock make?

A. I don't recollect.

12 int. Did you hear Mr. Hancock say anything about
322 being able to pull off the barge himself?

A. No.

13 int. Did Mr. Hancock at that time say anything to about the damage to his barge?

A. No, sir. The first intimation I had that he claimed that the

Fisher sunk the barge was on the second Saturday after the occurrence, which was on Monday.

14 int. How did you have that intimation?

A. I had it at his office, Mr. Hancock's.

15 int. What did Mr. Hancock then say to you?

A. I went in and told Mr. Hancock I understood he claimed the Fisher sunk his barge; that I was told aboard the Fisher that they did not hit his barge at all. I told him I thought it was very strange that he had not intimated to any of us that we had sunk his barge if he thought so. "Well" he said, "he had not seen us," or any of us. I don't recollect exactly how that was. I told him at the time that he did not believe himself that we had sunk the barge. He said he did'nt "know what else could have sunk it." When I told him that aboard the boat they said they did'nt hit his barge he went on to say how they hit it. He spoke, I think, of either the boat or the coal boat hitting the barge as they went up. I told him the captain said that he did not hit the barge as he rounded out. He said he did: "that the boat slid along down the side of my barge, and made a pivot of that barge to round out, and I think she must have hit my barge with her wheel, and broken so she sprung a leak."

"Well." said I, "did you examine the barge to see if she was
323 broken in any way." He said "yes, he did." Said I, "I suppose you examined it very closely, did'nt you?" "You are a good deal interested in it," he said. Yes. Did you see that she was taking in muddy water? No, he did not," but after leaving the boat sometime after, the watchmen reported to him the barge was sinking. Says I, "sinking, how? by taking water over the side of the barge." "Oh, no, muddy water" says he. "Over the side of the barge, I suppose," says I. "Well," says he, "he reported that she was taking in muddy water."

16 int. Were you in the city after this accident occurred for some time?

A. Yes, sir; for three months.

17 int. Where was your office at that time?

A. No. 1, city buildings.

18 int. Did Mr. Hancock know where your office was?

A. Yes, sir. I say yes; I don't know whether he does or not.

19 int. Did he know you were superintendent of the Madison County Coal Company?

A. I think he did.

20 int. Had you been coaling boats for him for some time?

A. Yes, sir; I think we coaled the previous year and up to that time.

21 int. From whom did you first get any information whatever that Mr. Hancock claimed that the Fisher had anything to do with the sinking of the barge Anna?

A. On the second Saturday after the Monday on which the barge was sunk; then the intimation was from Mr. Scudder, who was our clerk.

22nd int. As soon as you got the intimation, did you take occasion to see Mr. Hancock?

A. I did on that day.

23 int. Did Mr. Hancock seem to be very positive about the
324 agency of the Fisher in sinking the barge when you conversed with him?

(Counsel for the libellant objected to the foregoing interrogatory.)

A. He said to me that he did'nt know what else sunk it if the Fisher did not.

24 int. Did you see the barge any time before she sunk?

A. No, sir; I saw her after she sank, and saw her partly on the bank afterwards.

25 int. Some days afterwards?

A. Some weeks afterwards. I cannot recollect whether it was before I went east or not, or after I came back.

26 int. Where did she lay on the bank afterwards, when you saw her?

A. Inside the wharf-boat, laying with one end on the bank; I should think at least one half the barge was out of water. It was at the time that some one had made the attempt to haul her out with "crabs;" the crabs were then on the landing.

27 int. How did she lay at that time?

A. She was laying a little quartering from the river, the end of the barge up on the levee—laying across the levee,—and I think the lower end of the barge was still in the water. I went there for the purpose of examining the barge, to see if I could see any fracture in it.

28 int. Did you examine it?

A. Yes, sir; this part of the barge that was out. I could not find any place where it was broken, except I saw a place down on the upper side of the barge laying on the levee, down I should think perhaps one-third from the end, where the top streak seemed to have sprung off, and there was a piece of scantling there as though nailed to it, looking as if the barge had been broken and
325 that nailed on. It was only a small piece, and it looked to me as if that fracture was made from the weight of the barge hanging on the levee as it did; seemed to split it up. I should judge it was not more than six inches from the top of the barge; probably it was the top streak or the one next to it.

29th int. Well, might not that rupture or break have been occasioned by the position of the boat laying on the shore?

A. I thought so at the time that that is the way it occurred.

30 int. How did the boat lay as to her position at that time? was she in an easy position or not?

A. Not a very easy position; lying across the steep part of the levee, a part of the barge being in the water and a part out.

31 int. Was the bottom side up?

A. Yes, sir.

Cross-examination.

By the libellant:

1 x-int. When you saw shis spring in the seams of the barge, it was some time after the barge sunk, was it?

A. Yes, sir; a long time after she sunk; but I am not positive whether it was before I went east, in July, or in September when I came back.

2 x-int. The position that the barge occupied at that time was caused, I think you said, by an effort to drag her out?

A. Yes; there were "crabs" stationed above her at that time. I believe they had been to work at her, or were getting ready to work at her.

3 x-int. She did not occupy the natural position she would have occupied immediately after sinking, when you saw her last?

A. No; laying up on the levee, the water had gone down and left her.

326 4 x-int. You think that might have been caused by her being left in that condition by the falling water?

A. It looked to me as if the weight of the barge laying across the levee, perhaps, might have cracked it there.

5 x-int. Then it would have been caused, according to your theory, by the falling water?

A. By the falling water leaving her on the levee. (A.) The falling water left the forepart of the bow of the barge high upon the levee. I should think one third of the barge was up on the levee, and perhaps more.

6 x-int. And the falling water would cause the weight of the other end in the water to make the spring?

A. I judged so at the time; it was a small fracture—looked split a little, as if it had sprung.

(Signed) C. T. FRANCIS.

Nathaniel J. Eaton.

The deposition of Nathaniel Eaton, on the part of the respondent, taken before Geo. W. Bailey, a notary of St. Louis county, Missouri, at the city of St. Louis, in said eastern district, on the 19th day of December, A. D. 1866.

Nathaniel J. Eaton, being by me first duly cautioned, examined, and sworn to testify the whole truth, on oath deposeth and saith: My name is Nathaniel J. Eaton; I reside in the city of St. Louis; I am 59 years of age. I am acquainted with Daniel J. Hancock. I did not see or know the barge Anna before or after she sunk. (The paper hereto attached as an exhibit and marked "A" is here shown the witness, and he says that this paper is a copy of a protest made

327 before me, on the 30th of April, 1866, by William T. DeWitt, master of the steamboat City of Pekin; John L. Leach, pilot of the same boat; Stephen Collins, watchman on the same boat, and Daniel J. Hancock, one of the owners of the said boat, subscribed

and sworn to by them before me, the original of which I have in my possession, and decline to let go out of my possession.)

Question. Does the protest or not contain a true and correct statement of the parties thereto, as made before you ?

(Question objected to by Mr. Brodhead.)

Answer. The protest contains a correct statement of the parties as made before me.

Question. Did Daniel J. Hancock, at any time prior to the time when he signed the protest, request you to make any modification, alterations, or additions to said protest, or to put any words or sentences therein, except those to which he swore to ?

(Question objected to by Mr. Brodhead.)

Answer. I have no recollection of his having done so, and in a matter of that kind which is of so much importance, I certainly should have complied with the request; and I therefore say decidedly that he did not make it.

Question. Did you or not, at any time, refuse to write or put down in said protest any word or thing that Mr. Daniel J. Hancock requested you to write or put down ?

(Question objected to by Mr. Brodhead.)

Answer. I did not. In explanation, I would say that Mr. Hancock, in his narative, stated that he hailed the Fisher, and told her not
328 to land against the barge; the language of the protest is, when she was landing, she was warned not to land against the barge.

(Signed) N. J. EATON.

(The following is the protest (Exhibit A) referred to in foregoing deposition of Nathaniel J. Eaton:)

329 *Exhibit "A."*

United States of America.—N. J. Eaton, notary.

STATE OF MISSOURI, *City aad County of St. Louis*:

By this public instrument of protest, be it known, that on the 30th day of April, in the year of our Lord one thousand eight hundred and sixty-six, before me, N. J. Eaton, a notary public, in and for the county of St. Louis, dwelling in the city of St. Louis, State of Missouri, duly commissioned and sworn, personally came and appeared William T. DeWitt, master steamer City of Pekin; John L. Leach, pilot, steamer City of Pekin; Stephen Collins, watchman, steamer City of Pekin; Daniel J. Hancock, one of the owners, which said appearers, after having been duly sworn by me, the said notary, upon the Holy Evangelists of Almighty God, voluntarily, freely, and solemnly declare and dopose as follows, to wit:

That the barge Anna, loaded with pork, corn, oats, high wines, wheat, and household goods, arrived at the port of St. Louis, in tow of the steamer City of Pekin, from Peoria, in the morning of the 30th of April, 1866, at about ½ past 8 o'clock, and was landed at the out-

side of the steamer Belle of Pike, and was made fast to a barge, which was alongside of that boat, and a special watchman was placed in charge of her. She was left there because she could not be got into the landing, at the usual place of landing barges towed
330 by the boats belonging to the Illinois River Packet Company, because that place was occupied by New Orleans boats. About half-past 9 o'clock, a. m. of the day before mentioned, the tow-boat Fisher, with a coal-barge in tow, landed alongside of the barge Anna, and struck her heavily. D. J. Hancock, one of these deponents, was on board of the Anna, at the time the Fisher landed against her, and immediately afterwards looked into the spaces left in stowing the cargo, used to put in pumps, but did not discover that any water was coming into the barge. About half an hour after this, an alarm was given that the barge was sinking, and before anything could be done to save her or any part of her cargo, she turned over bottom upwards. The barge Anna was stout, staunch, and strong, and had her cargo well and properly stowed, and had met with no accident on the voyage from Peoria to St. Louis. It is supposed that when the tow-boat Fisher landed against the barge Anna she injured her so much as to cause her to sink. When she was landing she was warned not to land against the barge Anna.

Now, therefore, because of the premises, and as all the loss, damage, and injury which already have or may hereafter appear to have happened or accrued to the said barge or her said cargo, has been occasioned solely by the circumstances hereinbefore stated, and cannot nor ought not to be attributed to any insufficiency of the said barge, or default of him, the said master, his officers or crew, he not requires me, the said———, to make his protest and this
331 public act thereof, that the same may serve and be and remain in full force and virtue, as of right shall appertain.

And thereupon the said master doth protest, and I, the said notary, at his special instance and request, do by these presents publicly and solemnly protest against winds, weather, collision, and against all and every accident, matter, and thing, had and met with as aforesaid, whereby or by means whereof, the said barge or her cargo already has, or hereafter shall appear to have suffered or sustained damage or injury, for all losses, costs, charges, expenses, damages, and injury which the said master, the owner or owners of the said barge, or the owners, freighters, or shippers of her said cargo, or any other person or persons interested or concerned in either, already have or may hereafter pay, sustain, incur, or be put unto by, through, or on account of the premises, or for which the insurer or insurers of the said barge or her cargo, is, or are respectively, liable to pay, or make contribution or average according to custom, or their respective contracts or obligations; so that no part of such losses and expenses already incurred, or hereafter to be incurred, do fall upon him, the said master, his officers and crew.

We, Wm. T. DeWitt, Joseph L. Leach, Stephen Collins, Daniel J. Hancock, do solemnly swear that the foregoing statement is cor-

rect, and contains a true account of all the facts and circumstances of the case to the best of our knowledge.

(Signed) WM. T. DEWITT, *Capt.*
JOHN L. LEACH.
his
STEPHEN + COLLINS.
mark
DANIEL J. HANCOCK.

332 Thus done and protested at my office, in the city of St. Louis, this 30th day of April, in the year of our Lord one thousand eight hundred and sixty-six.

[SEAL.] (Signed) N. J. EATON,
Notary Public.

[U. S. rev. stamp.]

Enrollment of Barge Anna, given in evidence on the hearing of cause, (page 23.)

Form C.—Enrollment.—Enrollment in conformity to an act of Congress of the United States of America, entitled "An act for enrolling and licensing ships or vessels, to be employed in the coasting trade and fisheries, and for regulating the same," approved February 18, 1793, and of "An act to regulate the admeasurement of tonnage of ships and vessels of the United States," approved May 6, 1864. No. 96. Permanent.

D. J. Hancock, St. Louis, having taken and subscribed the oath required by the said act, and having sworn that he is president of the Illinois Packet Company, which company is incorporated by the State of Missouri, and the stockholders are citizens of the United States, sole owners of the ship or vessel called the barge "Anna," whereof D. J. Hancock is at present master; and as he hath sworn is a citizen of the United States, and that the said ship or vessel was built at St. Mary's, West Va., 28th June, 1865, as appears by her certificate of admeasurement, No. 223, on file in this office; and the said certificate having certified that the said ship or vessel

333 has no deck and no mast, and that her length is 151 x-10 feet; her breadth, 24 x-10 feet; her depth, 41-10; her height 10 feet; that she measures 128 tons and seventy-hundredths, viz: capacity under tonnage deck, 128.70; capacity between decks above tonnage deck, ——; capacity of enclosures on upper deck, ——; total tonnage, 128.70; and that she is a barge; has transom stern and plain head; and the said D. J. Hancock, having agreed to the description and admeasurement above specified, and sufficient security having been given according to said acts, the said barge "Anna" has been duly enrolled at the port of St. Louis, Missouri.

Given under my hand and seal of office, at the port of St. Louis,

this 24th day of April, in the year one thousand eight hundred and sixty-six.

[SEAL.] (Signed) R. J. HOWARD, *Sur.*
L. J. HOWARD, *Dep.*

CUSTOM HOUSE, *St. Louis, Nov.* 30, 1866.

I certify the above to be a true copy of the enrollment of the barge "Anna," as appears of record in this office.

Witness my hand and official seal.

(Signed) R. J. HOWARD, *Surveyor, &c.*
By JOHN SAMSON, *Deputy.*

UNITED STATES OF AMERICA, *Eastern District of Missouri, ss:*

I, Benjamin F. Hickman, clerk of the District Court of the United States in and for the eastern district of Missouri, do hereby certify the writings hereto annexed to be a copy of the original
334 record and proceedings, and also of the evidence read upon the trial in case No. 1,165, A. D. 1867, of the Illinois River Packet Company, libellant, against the steamboat Francis Fisher, her engines, machinery, tackle, apparel, and furniture, as fully as the same remain on file and of record in said case in my office.

In witness whereof I hereunto subscribe my name and affix the seal of said court at office, in the city of St. Louis, in said district, this thirtieth day of March, in the year of our Lord eighteen hundred and sixty-seven.

BEN. F. HICKMAN,
Clerk of said court.

And afterwards, at the April term of said Circuit Court, in th year 1867, and on Saturday, the 13th day of April, in said year, the following order was made, viz:

Appeal from the District Court of the United States for the eastern district of Missouri.

THE ILLINOIS RIVER PACKET COMPANY, libellant and appellee,
ag'st
THE STEAMBOAT FRANCIS FISHER, her engines, etc., The Madison County Coal Company, claimant and appellant.

This day come the parties, by their respective advocates,
335 and upon the application of advocate for the claimant and appellant, and upon the affidavits of Cyrus T. Francis and James K. Knight, this day filed herein, it is ordered that this cause be now continued until the next term of this court.

Memorandum.—His honor Judge Treat did not sit or take part in the disposition of this cause.

Which affidavits are as follows, viz:

In the United States Circuit Court for the district of Missouri.

Appeal in admiralty.

THE ILLINOIS RIVER PACKET COMPANY, lib't,
vs.
THE STEAMBOAT FRANCIS FISHER, appellant.

Cyrus T. Francis, agent of the appellant, being duly sworn on his oath, says: That the original libel in this case was filed in the District Court, on the 11th day of September, 1866, returnable to the November term, 1866, of said District Court; that afterwards, and during said term, the case came on for hearing on the 17th December, and the hearing thereof continued from day to day until the 21st day of December, 1866, when the case was argued and submitted to his honor Judge Treat, who took the same under advisement; and afterwards, to wit, on the 7th January, 1867, his honor Judge Treat having fully considered the same, and being
336 advised thereon, rendered a decree in said cause, from which the appellant prayed an appeal to this hon. court on the 12th January, 1867, in which said appellant gave notice that said appellant intended to have said cause heard in this honorable court, on new testimony to be taken in addition to the evidence before the said District Court; that the record in the court below contains the testimony of 27 witnesses, and embraces about 412 pages, or upwards, of 1,200 folios; and that since said case has been appealed, the testimony of these other witnesses has been taken, embracing about 28 pages, or upwards, of 70 folios; that the deposition of the two last witnesses were taken on the 11th of April, 1867; that the appellant used every exertion within its power to procure the testimony of the last-named witnesses long before the said 11th of April; but owing to the uncertainty of their whereabouts, two of whom being river-men, the appellant was unable to find and procure their testimony sooner; that said last-named depositions were filed in this court on the 12th inst.; that the cause of action in this case arose, according to the pleadings, upwards of five months prior to the filing of the libel in this case; and owing to this circumstance and the delay
337 of libellant, the respondent found it difficult to procure the testimony of his witnesses, who were almost exclusively river-men, and running on vessels in almost all the waters of the western States; that this application for a continuance is not made on the ground of the absence of any material witness known to the appellant, but on the ground that the appellant ought not to be forced to trial in a case of this nature, where, as he is advised by counsel and believes, the appellant cannot present the appellant's case fairly and fully to this honorable court at this term of the court, owing to the circumstances aforesaid; that this application is not made for vexation or

delay, but because affiant believes that the appellant cannot safely go to trial at the present term of this honorable court.

(Signed) CYRUS T. FRANCIS.

Sworn to before me this 13th April, 1867.

BENJ. F. HICKMAN,
U. S. Com'r Mo. Dis.

In the Circuit Court of the United States for the districts of Missouri.

THE ILLINOIS RIVER PACKET COMPANY, lib't,
vs.
THE STEAMBOAT FRANCIS FISHER, appellant.

338 James K. Knight, proctor of the respondent and appellant in above-entitled cause, says that he was originally employed as the counsel and proctor for respondent and appellant herein, and has had the chief management of this case on behalf of said appellant, and that John H. Rankin, esq., was called in as additional counsel shortly before the trial of said cause in the District Court in December last. Affiant says that he has read the affidavit made herein by C. T. Francis, the agent of the appellant, and believes the statements therein made to be substantially true. In addition to the statements therein made, affiant says that, since the commencement of the present term of this honorable court, he has been unusually busy and actually occupied nearly every day in the trial or preparation of cases in the State courts; that for upwards of a week past he has been almost constantly employed in behalf of the State of Missouri, to institute proceedings for the purpose of protecting the public credit and the interests of the State; that, owing to these facts and circumstances, which are unusual and extraordinary, he has been unable to prepare for the trial of
339 this case in the manner a case of this magnitude should be tried; that the last deposition in this case having been taken on the 11th inst., he has had no time to arrange or consider the effect of the same; that he believes the appellant mainly relies on the affiant in the conduct of this case, for the reason that Mr. Rankin, who is associated with him in the case, has not been able, nor was he expected, to devote much of his time to the preparation of said case.

Affiant believes that if this case is now forced to trial the interest of the appellant may be prejudiced for the want of preparation on part of the appellant's counsel, owing to the circumstances aforesaid.

(Signed) JAMES K. KNIGHT.

Sworn to before me this 13th day of April, 1867.

BENJ. F. HICKMAN,
U. S. Com'r Mo. Dis.

And afterwards, at the October term of said Circuit Court, in the year 1867, and on Saturday, the 12th day of October, of said year, the following order was made, viz:

Appeal from the District Court of the United States for the eastern district of Missouri.

THE ILLINOIS RIVER PACKET COMPANY, libellant and appellee,
ag'st
340 THE STEAMBOAT FRANCIS FISHER, HER engines, etc., The Madison County Coal Co., claimant, respondent, and appellant.

This day come the parties, by their respective advocates, and this cause having been brought on for hearing by said advocates, upon the appeal as taken by the respondent and appellant from the decree of the District Court of the United States for the eastern district of Missouri, and upon the case, as now presented to this court, the said cause was in part heard; but not being concluded at the hour of adjournment, further proceedings are continued until Monday morning next.

Memorandum.—His honor Judge Treat did not sit or take part in the hearing of said cause.

And afterwards, at the October term of said Circuit Court, in the year 1867, and on Monday, the 14th day of October, of said year, the following order was made, viz:

Appeal from the District Court of the United States for the eastern district of Missouri.

THE ILLINOIS RIVER PACKET COMPANY, libellant and appellee,
against
THE STEAMBOAT FRANCIS FISHER, HER ENGINES, etc., The Madison County Coal Co., claimant, respondent, and appellant.

341 This day come again the parties, by their respective advocates, and the hearing of this cause upon the appeal, as taken by the respondent and appellant, from the decree of the District Court of the United States for the eastern district of Missouai, and upon the case, as now presented to the court, havidg been resumed, the said cause was furter heard; but the hearing thereof not being concluded at the hour of adjournment, further proceedings are continued until to-morrow morning.

Memorandum.—His honor Judge Treat did not sit or take part in the hearing of said cause.

And afterwards, at the October term of said Circuit Court, in the year 1867, and on Tuesday, the 15th day of October, of said year, the following order was made, viz:

Appeal from the District Court of the United States for the eastern district of Missouri.

THE ILLINOIS RIVER PACKET COMPANY, libellant and appellee,
ag'st
THE STEAMBOAT FRANCIS FISHER, HER engines, etc., The Madison County Coal Co., claimant, respondent, and appellant.

342 This day come again the parties, by their respective advocates, and the hearing of this cause upon the appeal, as taken from the decree of the District Court of the United States, in and for the eastern district of Missouri; and upon the case, as now presented to this court, having been concluded, and the same having been fully argued by the respective advocates of appellant and appellee, said cause was submitted to the court for a decree herein.

Memorandum.—His honor Judge Treat did not sit or take part in the hearing of said cause.

And afterwards, at the October term of said Circuit Court, in the year 1867, and on Thursday, the 17th day of October, of said year, the following order was made, viz:

Appeal from the District Court of the United States for the eastern district of Missouri.

THE ILLINOIS RIVER PACKET COMPANY, libellant and appellee,
ag'st
THE STEAMBOAT FRANCIS FISHER, HER engines, etc., The Madison County Coal Co., claimant, respondent and appel't.

This day come again the parties, by their respective advocates, and this cause having been brought on for hearing, at the present term of this court, and the same having been fully heard,
243 argued, and submitted to the court, for a decree upon the record of the proceedings in the District Court of the United States, in and for the eastern district of Missouri, and upon the case, as made out and presented to this court; and the court, after examination of the said record and proceedings, and hearing the arguments of the respective advocates of said appellant and appellee, and being fully advised in the premises, do now finally adjudge, order, and decree, that the judgement as rendered in this cause by the said District Court, be and the same is hereby, now affirmed; and that the said libellant and appellee, The Illinois River Packet Company, recover against The Madison County Coal Co., the respondent and appellant herein, and against William A. Scudder, as principal, and John B.

S. Lemoine, John E. Liggett, and Henry Dausman, as sureties, in the stipulations filed by saidr espondent and appellant in said cause, the sum of ($14,596 34-100) fourteen thousand five hundred and sixty-six dollars and thirty-four cents, the amount of the damages sustained by said libellant and appellee, by reason of the collision
344 in its libel herein set forth, with interest on said amount from the 7th day of January, A. D. 1867, and also the costs of this cause, to be taxed; and further ordered that, in case of default or contumacy in the payment of said sum, with interest and costs, as aforesaid, by said stipulators, within ten days from this date, execution be issued therefor against said respondent and appellant and its stipulators aforesaid.

Memorandum.—His honor Judge Treat did not sit or take part in the hearing or disposition of said cause.

And afterwards, at the October term of the said Circuit Court, in the year 1867, and on Thursday, the 24th day of October, of said year, the following order was made, viz:

Appeal from the District Court of the United States for the eastern district of Missouri.

THE ILLINOIS RIVER PACKET COMPANY, libellant and appellee,
ag'st
THE STEAMBOAT FRANCIS FISHER, her engines, etc., The Madison County Coal Co., claimant, respondent and appellant.

345 This day comes the claimant and appellant in this cause, by James K. Knight and John H. Rankin, esquires, its advocates, and presented to the court its petition for the appeal of said cause from this court to the Supreme Court of the United States; and the court having examined said petition, and being advised of and concerning the same, now orders that said appeal be granted, and that the record and proceedings in said cause be certified and transmitted to said Supreme Court.

Said claimant and appellant, by their said advocates, also presented to the court its bond of appeal in said cause, executed by Cyrus T. Francis, as principal, and John B. S. Lemoine, John E. Liggett and Henry Dausman, as sureties, which bond is approved and ordered to be filed of record in said cause.

Which petition and bond is as follow, viz:

In the United States Circuit Court for the Districts of Missouri.—In admiralty.

THE ILLINOIS RIVER PACKET COMPANY, libellant,
vs.
THE ST'MB'T "FRANCIS FISHER," Madison County Coal Co., claimant and appellant.

346 To the honorable, the Supreme Court of the United States:

The appeal of the Madison County Coal Company, claimant and appellant, respectfully showeth, that on the 11th day of September, 1866, the above-named libellant filed its libel in the District Court of the United States for the eastern district of Missouri against said steamboat "Francis Fisher," her tackle, apparel, etc., in a cause, civil and maritime, for the recovery of damages alleged to have been sustained by libellant to the barge "Anna" and cargo, by collision with the said steamboat Fransis Fisher, on the Missouri river, in the State of Missouri; that said steamboat was arrested upon process issued upon said libel, and was discharged upon your petitioner entering into and filing the usual stipulations, who thereupon filed an answer to said libel. That such proceedings were had in said cause that on on seven day of January, 1867, a final decree was made and pronounced by said District Court, wherein it was in substance adjudged that the said libellant recover against the
347 said steamer Francis Fisher the sum of fourteen thousand five hundred and sixty-six dollars and thirty-four cents, together with costs.

That thereafter your petitioner duly appealed therefrom to the Circuit Court of the United States for the districts of Missouri, and the said cause was removed thereby into the said Circuit Court, and there tried anew; and such proceedings were had in the said Circuit Court, that afterwards, on the seventeenth day of October, 1867, the said Circuit Court made a final decree in said cause, whereby it was decreed that the said decree of said District Court be in all things affirmed with costs, and final judgment and decree was thereupon entered against said vessel, petitioners and stipulators, amounting to the sum of $14,566 34-100 dollars, with interest thereon from the 7th day of January, 1867, and that the said appellee have execution, and that the stipulators cause their stipulations to be fulfilled within ten days thereafter, which said decree of the said Circuit Court is as this appellant is advised, erroneous, and ought to be re-
348 versed; therefore this appellant appeals from the whole of said decree of said Circuit Court to the Supreme Court of the United States, and respectfully prays that the said decree of the said Circuit Court, and the libel, answer, pleadings, depositions, evidence and proceedings in the said cause may be sent to the Supreme Court of the United States without delay, and that the said Supreme Court will proceed to hear the said cause anew, and that the said decree of

the Circuit Court and every part thereof, may be reversed, and a degree made dismissing said libel, with costs, or such other degree as to the said Supreme Court shall seem just.

(Signed) CYRUS T. FRANCIS,
Agent of the Madison County Coal Company, appellant.
(Signed) JAMES K. KNIGHT & JOHN H. RANKIN,
Proctors for Appellant.

349 In the Circuit Court of the United States for the district of Missouri.

In cause No. , of the Illinois River Packet Company, libellant, against the steamboat Francis Fisher, her tackle, etc., Madison County Coal Company, claimant and appellant.

UNITED STATES OF AMERICA, *District of Missouri, ss*:

Know all men by these presents, that we, Cyrus T. Francis, as principal, and John B. S. Lemoine, John E. Liggett, and Henry Dausman, as sureties, (all of the city of St. Louis, State of Missouri,) are held and firmly bound unto the above-named Illinois River Packet Company in the sum of twenty thousand dollars, for the payment of which, well and truly to be made, we bind ourselves, and each of us, and each of our heirs, executors, and administrators jointly and severally firmly by this presents.

Sealed with our seals and dated this twenty-fourth day of October, one thousand eight hundred and sixty-seven.

Whereas the above-named appellant has prosecuted an appeal to the Supreme Court of the United States, at the city of Washington, in the district of Columbia, to reverse the decree rendered in
350 above suit against the appellant and sureties on the seventeenth day of October, 1867, (for the sum of fourteen thousand five hundred and sixty-six 34-100 dollars, with interest thereon from the seventh day of January, 1867, etc.,) by the Circuit Court of the United States for the district of Missouri: Now, therefore, the condition of this obligation is such, that if the above-named appelant shall prosecute its appeal to effect, and answer and pay all damages and costs that may be adjudged against it on said appeal if it should fail in said appeal, then this obligation shall be void, otherwise the same shall remain in full force and virtue.

Witness whereof, we have hereunto severally subscribed our names, and affixed our seals, at the city of St. Louis, in said district, the day and year aforesaid.

[SEAL.] (Signed) CYRUS F. FRANCIS.
[SEAL.] J. B. S. LEMOINE.
[SEAL.] J. E. LIGGETT.
[SEAL.] H. DAUSMAN.

Signed, sealed, and acknowledged by said Cyrus T. Francis, J. B. S. Lemoine, J. E. Liggett, and Henry Dausman, the parties to the foregoing bond before me, at office in the city of St. Louis in said district this 24th day of October, 1867.

BEN. F. HICKMAN,
Clerk U. S. C. C., Mo. Dis.

351 UNITED STATES OF AMERICA, *District of Missouri, ss:*

J. B. S. Lemoine, John E. Liggett, and Henry Dausman, sureties in the foregoing bond, being duly sworn, each and severally deposes and says that he is worth, over and above all his debts and liabilities, the sum of twenty thousand dollars, and that he owes real estate to that amount subject to execution within said eastern district of Missouri.

(Signed) J. B. S. LEMOINE.
J. E. LIGGETT.
H. DAUSMAN.

Subscribed and sworn to by J. B. S. Lemoine, John E. Liggett, and Henry Dausman this 24th day of October, A. D. 1867.

BEN. F. HICKMAN,
Clerk U. S. C. C., Mo. Dist.

The following are the copies of the additional depositions used upon the hearing of this cause on such appeal in said Circuit Court on part of the respondent and appellant, viz:

UNTTED STATES OF AMERICA,
State of Missouri, County and City of St. Louis, ss:

I certify that on the fifth day of April, A. D. 1867, before me, Edmund T. Allen, a notary public in and for said county of St.
352 Louis, duly commissioned and sworn, at the office of Messrs. Sharp and Broadhead in said city, county, and State, between the usual hours of business, was produced to and personally came before me, Abraham L. Hester, a witness on behalf of the respondent, to depose in a cause in admiralty now depending in the Circuit Court of the United States for the eastern district of Missouri, held at St. Louis, Missouri, wherein the Illinois Piver Packet Company is libellant, and the Madison County Coal Company is respondent, in an action in rem against the steamer Francis Fisher; and the said Abr. L. Hester being of lawful age, and sound mind, and being by me first carefully examined, cautioned, and duly sworn to testify the whole truth touching the matter in controversy in said civil cause, he, the said Abraham L. Hester, deposes and says, in answer to interrogatoris and cross-interrogatories, as follows:

1st int. State your residence, age, and occupation.

A. I reside at Montezuma, Illinois; am 39 years of age; have been steamboat hand, and am acting now as steamboat mate.

2nd int. State what you were doing last year 1866.

A. In the first part of the year—I commenced in February, may be—I was deck-hand on the Naples Packet Company's boat.
353 3rd int. Which one?

A. Well I was on both boats that run in the trade; I don't know which boat I was on at the time. I was on the Belle of Pike and Post Boy.

4th int. Well, what boat were you on in April, 1866?

A. Well, I was on either the Belle of Pike or Post Boy; I don't

know which I was on ; they both run in that trade, and I was on both boats. I am not certain which boat was running at the time.

5th int. Do you remember being on the boat at the Naples Packet landing when the barge Anna, belonging to the Illinois River Packet Company, was sunk ?

A. I was on one of their boats, and there was a barge capsized there, but to know the name of the barge I don't know it, except as I have heard other people call it since.

6th int. At what time was this ?

A. I would suppose sometime along in April or May.

7th int. In 1866 ?

A. Yes.

8th int. Did you see the barge when she came in ?

A. Yes, sir; I saw the barge as she came in.

9th int. Did you see her when she was landed—fastened ?

A. Yes; she was towed in there by the City of Pekin and made fast to a barge that lay outside of the Naples Packet boat, whichever it was—the Belle of Pike or Post Boy, whichever it was. I don't know exactly which made fast to the stern of that barge which lay outside of us, which let her lay pretty well to the stern of the Naples Packet boat.

354 10th int. Well, did you see the Francis Fisher come up after the barge had been fastened ?

A. Yes, sir; I saw her come up there; she came up with a coal-flat and left it; made the coal-flat fast to the barge that laid along the head of the Naples Packet boat—whichever boat it was.

11th int. Whereabouts were you when the Francis Fisher came in ?

A. I was standing in the wheelhouse the splash door was open, I think, or I opened it, and I just walked out into the wheelhouse.

12th int. Were you in the wheelhouse of the Naples Packet boat when the Fisher came in, and also when she went out ?

A. Yes, sir.

13th int. Could you see the Fisher distinctly when she came in ?

A. I could see her as well as I could see anything.

14th int. Was there anything between you and the Fisher ?

A. No, sir; there was nothing there to prevent me from seeing her.

15th int. Did you see how near the Fisher came to this barge in coming in ?

A. Well she did not come very close—30 or 40 feet; might have been a little farther, maybe not quite that far. I did not pay
355 much attention to how close she came; it was a common occurrence, her coming in there.

16th int. In rounding out, how near did the Fisher come to the barge ?

A. I didn't think she came very close to it; she might have been closer than I was aware of.

17th int. How far should you say ?

A. I don't know how far to say. In going in there and getting out, I shouldn't think she came nearer than 20 or 30 feet. At the time I paid so little attention to it; it was so common a thing, her coming in there.

18th int. Did the Fisher touch her, either coming in or going out?

A. I think not, sir. I don't think that she touched her. I am of the opinion that she didn't.

19th int. Would you likely to know if she did, from your position?

A. I do'n't know but what I would, if I had paid right strict, good, close attention. Myself and some other men, appened to be standing in the wheelhouse when she came in talking about the barge.

20th int. What was the position of the barge at the time?

A. Well, sir, I think it was in rather a bad fix myself. I considered she was in rather a bad fix.

356 21st int. State in what particular she was in a bad fix; what made her in a bad fix, in your judgment?

A. Well, one thing there was water in the boat; she was laying in a bad condition across the current, and the swells from the ferry-boat was swashing on her.

22d int. How was she as to her load? How was she loaded—the barge?

A. She was loaded well enough, but she was loaded pretty deep as I thought.

23rd int. Did you see the barge when she capsized?

A. I saw her when I suppose she was about two-thirds down.

24th int. That was after she capsized and before she sunk.

A. As she was sinking she was keeled over, and I suppose she was about two-thirds under water; might be more, I do'n't think she was.

25th int. How did she keel over?

A. She went down; her stern was out of my sight; the first I saw she keeled over to the starboard, to the starboard of the barge.

26th int. That is out from the boat?

A. Yes; out from the boat.

27th int. Well, did you see her sink?

A. After I saw her in that condition I stood there until she went clear over, and she swung round in under the boat I was on, her stern right across the boat, under it, and rather under the city of

357 Pekin, cornering in between the two, under the two.

28th int. Before she went under the boat you were on, what was done with her? Did you see anything done to save her?

A. Well, some wanted to do one thing and some another.

29th int. What was done? what did you see done?

A. I do'n't know whether they finally got anything done on her until she went in under the boat I was on. I believe they tried to cut a hole through her—bore a hole—and then she went so far under that they went between the two steamboats and worked on her. The carpenter of the City of Pekin, and, I think, the carpenter of the Naples Packet boat worked at it; lent them a hand to try to get a hole in her.

30th int. Was the hole cut before or after she went under the Belle of Pike or the boat you was on?

A. I think it was cut after she went in under it.

31st int. What was the effect, if any, of the cutting of the hole?

A. I couldn't see that it done any good; my way of thinking

at the time; I thought it was something that was of no advantage to them.

32nd int. In whose employment are you now?

A. Capt. Willis of the steamer Gem.

33rd int. In what capacity are you on that boat?

358 A. I am mate.

Cross-interrogations.

1st x-int. You have stated that you didn't know what barge it was, what the name of the barge was?

A. No, sir; I couldn't.

2nd x-int. Or what time it was?

A. It was in April or May; about that time, I think.

3rd x-int. In what capacity were you acting at that time on the boat?

A. I was deck-hand.

4th x-int. Were you on duty?

A. Yes, sir.

5th x-int. Your attention was mainly engaged on your duties about the boat.

A. My attention was, generally.

6th x-int. I think you stated in your examination-in-chief that you didn't pay particular attention to the coming in or going out of the Fisher?

A. I said I didn't, because it was so common an occurrence.

7th x-int. Then you do'n't know whether she came against the barge or not?

A. I stated that I didn't think she touched the barge at all.

8th x-int. Could you be certain about it.

A. I wouldn't be certain; it is my opinion that she didn't hit it.

9th x-int. Were you on board of that barge that sunk at any time after she came in?

A. Not untill after she capsized.

10th x-int. By what do you judge then that there was water in the barge?

359 A. I was standing there and she was laying right where I could see right down in her, right by the wheelhouse.

11th x-int. Still you were not on board of her?

A. No, sir.

12th x-int. Well, what was on the decks of that barge?

A. There was some barrels and, I think, sacks.

13th x-int. Covered all over, the deck, was it not?

A. Well, I don't know that it was covered all over; it might have been pretty much all covered.

14th x-int. Don't you know that the deck was all covered?

A. Well, if I had known it I would have said so; I don't know it; it might have been.

15th x-int. How could the barge be loaded down unless it was covered with freight?

A. Well, it is a very easy matter to load a barge and not cover it at all.

16th x-int. Is it mere conjecture on your part about the water?

A. If it had been I would have said so.

17th x-int. You were not on the barge?

A. No.

18th x-int. You know nothing about it, except what you casually saw while attending to your duties?

A. I was there and I saw the barge come in there loaded down, and there was water in her; and I said if she wasn't very par-
360 ticular she would sink.

19th x-int. Is it not a customary thing to land barges always in that place?

A. I don't know but what they do land them pretty frequently there.

20th x-int. Isn't the Naples Packet Company in the habit of landing their barges there?

A. I don't know but they do; but not, in my opinion, in that shape. They have them pretty near to the wharf-boat. I don't know that I ever saw them land a boat in that shape, although they might have done so.

Re-examination.

34th int. From the place where you stood could you see down into the hold of the barge?

A. Yes, sir.

34th int. You stood in the wheelhouse, and the barge came up against the boat?

A. Laid right up against the boat. She was fastsned to the stern of a barge that laid outside of the boat I was on.

Cross-examination resumed.

21st x-int. How long before the barge sunk was it that you were out there?

A. It wasn't but a very little while.

22nd x-int. About how long?

A. It was only two or three minutes; it might have been longer.

23rd x-int. Didn't you go out again after that before the
361 barge sunk?

A. I was there a time or two, I think. I was there when she came in. I was there a time or two.

I, the said notary, further certify that the foregoing deposition of Abraham L. Hester was then and there reduced to writing by me, in the presence of the deponent; that the adverse party was notified and was present at the taking of said deposition. I further certify that the parties to the above-named cause, by themselves and their attornies, agreed that the above deposition might be read in evidence without the deponent; that I am neither counsel, agent, or at-

torney for either of the parties above-named, and am in no way interested in the result af said cause.

In testimony whereof, I have hereunto set my hand and affixed my seal notarial this twelfth day of April, A. D. 1867.

[SEAL.] (Signed) EDMUND T. ALLEN,
Notary Public.

[Revenue stamp.]

362 UNITED STATES OF AMERICA,
County and City of St. Louis, ss:

I certify that on the 11th day of April, A. D. 1867, before me, Edmund T. Allen, a notary public in and for said county of St. Louis, duly commissioned and sworn, at the office of J. K. Knight, esq., in said city, county, and State, between the usual hours of business, was produced to and personally came before me Wm. Mitchel, a witness on behalf of the respondent, to depose in a cause in a admiralty now depending in the Circuit Court of the United States for the district of Missouri, held at St. Louis, in said district, wherein the Illinois River Packet Company is libellant and the Madison County Coal Company is respondent, in an action in rem against the steamer Francis Fisher; and the said Wm. Mitchell, being of lawful age and sound mind, and being by me first carefully examined and duly cautioned and sworn to testify the whole truth touching the matter in controversy in said civil cause, deposes and says :

1st int. State your name, age, residence, and occupation.

363 A. I live in Pittsfield, Ill's; am 28 years of age, and am a engineer.

2nd int. How long have you been an engineer?

A. About 9 years.

3rd int. What were you engaged in in April, '66?

A. I was engineer on the Naples packet boat, the Belle of Pike.

4th int. Do you remember, as the Belle of Pike was laying at the Naples wharf-boat, in the latter part of April, 1866, of a barge being landed there by the steamer City of Pekin?

A. Yes, sir; I don't know exactly about the date, but somewhere about that time.

5th int. Do you remember the name of that barge?

A. The barge's name was Anna, I think.

6th int. Where were you when she was landed?

A. I was in the engine-room on the Belle of Pike.

7th int. Did you see her when she was landed?

A. Yes, sir; I saw the barge when she was landed.

8th int. How was she landed and where?

A. She was landed on the outside of the Belle of Pike.

9th int. How was she fastened?

A. Well, I don't know how she was fastened; whether she was fastened to the shore, or to a barge that laid right ahead of her;

364 fastened with lines though, either to the shore or to a barge ahead.

10th int. How did she lay as to the Belle of Pike?

A. Well, she laid right up broadside against the Belle of Pike, in the same position, as to the current, as the Belle of Pike.

11th int. Was that when she was first landed?

A. Yes, sir.

12th int. What occurred after she was landed as to her position?

A. Well, after the barge was landed the steamer City of Pekin dropped down and came in under the stern of the Belle of Pike.

13th int. What effect did that have?

A. That shoved the Belle of Pike's stern further out in the river; made her lay more across the current.

14th int. How far under the Belle of Pike did the City of Pekin come?

A. Well, she came to her usual landing, up under the Belle of Pike.

15th int. Where was that?

A. The middle gangway on the wharf-boat.

16th int. Well, what occurred after that?

A. A very few minutes after that the barge capsized.

17th int. Did you see her after she capsized?

A. I did.

18th int. Immediately after?

A. Yes, sir; in a minute afterwards.

19th int. How did the barge lay when you saw her?

A. She lay right bottom upwards.

365 20th int. Level?

A. Yes, sir; level.

21st int. What occurred as to the barge shortly after she capsized?

A. Well, the captain of the Pekin as soon as he found that the barge was capsized, came down and got on the bottom of the barge, and stood there some minutes; and Capt. Hancock, he also came and came down on the bottom of the barge.

22nd int. How long did they remain on the bottom of the barge?

A. 5 or 10 minutes, I presume; pretty near that.

23rd int. Where were you at this time?

A. I was standing right on the outside guard of the Belle of Pike.

24th int. So you could see directly down on the barge?

A. Yes; the barge wasn't three feet from where I stood?

25th int. int. What occurred then when you saw these men on the barge?

A. Well, Capt. Hancock asked Capt. De Witt what could have occasioned that, and remarked that he was down on the barge half an hour ago, when it landed, and that he saw no water in the barge.

26th int. Did Capt. Hancock at that time say anything about the Fisher?

A. No, sir.

27th int. What, if anything, did Capt. De Witt say in reply to Capt. Hancock?

A. I didn't hear him make any reply whatever.

366 28th int. How long after that before the barge sunk?

A. Well, I don't know; they were talking about hitching on to the barge with a steamboat, and turning it back again. The barge sunk down under us, and we went out. I don't know much about her after that.

29th int. Did she sink entirely?

A. Well, I suppose she did; she sunk as far down as she could; she sunk to the bottom.

30th int. Did she sink so she went under the Belle of Pike?

A. No, sir; not that day. She just laid there, and, I think, they dropped her down.

31st int. Were there any efforts made there at the time to save the barge, that you saw?

A. No, sir; I didn't see any efforts made. I heard considerable talk about saving her, but did not see any efforts made.

32nd int. Did you discover any breaks or leaks in the bottom, or any portion of the barge that was exposed after she capsized?

A. No, sir; none whatever.

33rd int. After she capsized did she remain fastened to the boat above?

A. In the same position she was before? Yes sir.

34th int. Were you on the Belle of Pike all that time?

A. Yes, sir; all day.

35th int. Did you see the Fisher come in or go out!

367 A. I Did not.

36th int. Do you know whether the Fisher struck the barge Anna or not going in or going out?

A. I do not.

37th int. Would you have known it if she had struck her a heavy blow?

A. Yes, sir; I am positive I should have known it.

38th int. How would you have known it?

A. I should have known it by the jar on the boat. I should have felt the jar on the Belle of Pike.

39th int. Did you or not feel any jar.

A. No, sir; I didn't feel any jar whatever.

40th int. Did you, in any of the conversations you heard there, hear anything of the Fisher having struck the barge?

A. No, sir; I did not.

Cross-examination

1st x-int. You say you were engineer on the Belle of Pike at that time?

A. Yes.

2nd x-int. First or second engineer?

A. A second engineer.

3rd x-int. Were you on duty that day?

A. Well, I was on duty; we were all on duty. If a boat is in port the engineers are all on duty; we were all on duty about deck there.

4th x-int. Dldn't you go off the Belle of Pike at all that day?

A. No, sir; not since.

5th x-int. You say that when the barge capsized she came upon the starboard side of the Belle of Pike?

368 A. She was laying on the starboard side of the Belle of Pike when she capsized.

6th x-int. Se didn't go under the Belle of Pike?

A. No, sir.

7th x-int. Didn't she go under the Belle of Pike at all that day?

A. No, sir.

8th x-int. She remained lying on the starboard side of the Bell of Pike all day?

A. Yes.

9th x-int. Did she remain fastened by a rope all day in that position?

A. Yes, sir; that is, until we left the landing.

10th x-int. Don't you recollect what she was fastened to?

A. No.

11th x-int. Fastened with a line, was she?

A. Yes.

12th x-int. Do you recollect the barge Julia?

A. There was a barge there; I don't recollect her name. The head of the other barge was fastened on shore, and she lay right across the bow of the Belle of Pike.

13th x-int. And you don't whether this barge was fastened to that barge or the shore?

A. No; I do not.

14 x-int. Did you get on the bottom of the barge after she capsized?

A. No, sir.

15th x-int. Where was it you heard this conversation between Hancock and De Witt?

A. Those gentlemen were on the barge, and I was on the

369 outside guard of the Belle of Pike.

16th x-int. They were on the bottom of the barge?

A. Yes.

17th x-int. How far were you from them?

A. 4 or 5 feet.

18th x-int. Who else was present?

A. Mr. Robert Burris and Washington M. Cann.

19th x-int. How much of the bottom of the barge was exposed?

A. Well, all of the bottom; a man could have walked along the bottom; you could see the barge all the whole length.

20th x-int. Wasn't her stern deeper in the water than her bow?

A. Well, her stern was a very little the deepest, for the barge being tied, the current would naturally hold the forward end a little higher up than the lower end.

21st x-int. Suppose there was a hole in the stern of the barge, where the water could get in, wouldn't that sink lower down than the bow, the bow being held up?

A. I don't think it would.

22nd x-int. Did you go on the barge at all that day?

A. No, sir.

23rd What time in the day was it that you heard this conversation between Capt. De Witt and Hancock?

A. I don't remember; it was in the forenoon.

24th x-int. Did you see the Fisher at all that day?

A. No, sir.

370 25th x-int. What time did the Belle of Pike get into the landing that morning?

A. I think she got in about 6 o'clock that morning.

26th x-int. And you are sure that you saw the whole of the bottom of the barge from one end to the other?

A. I saw portions of the barge from one end to the other. I did not see the whole of the bottom; there was water in some parts of it; but I could have walked from one end of the barge to the other.

27th x-int. Was she lying level?

A. Yes, sir.

I, the said notary, further certify that the foregoing deposition of Wm. Mitchell, was then and there reduced to writing by me, in the presence of the deponent; and the adverse party was notified and was present at the taking of said deposition. I further certify, that the parties to the above-named cause, by their attorneys, in my presence, agreed that the above deposition might be read in evidence, without the signature of the deponent; that I am neither counsel, agent, or attorney for either of these parties above named, and

371 am in no way interested in the result of said suit.

In testimony whereof, I have hereunto set my hand and affixed my seal notarial this twelfth day of April, A. D. 1867.

[SEAL.] (Signed) EDMUND T. ALLEN,
Notary Public.

[Revenue stamp.]

UNITED STATES OF AMERICA,
State of Missouri, County and City of St. Louis, ss:

I certify that on the 11th day of April, A. D. 1867, before me, Edmund T. Allen, a notary public in and for said county of St. Louis, duly commissioned and sworn at the office of J. K. Knight, esq., in said city, county, and State, between the usual hours of business, was produced and personally came before me, John Higgins, a witness on behalf of the respondent, to depose in a cause in admiralty now depending in the Circuit Court of the United States for the district of Missouri, held at St. Louis, Missouri, wherein the Illinois River Packet Company is libellant, in an action in rem against the steamer Francis Fisher and the Madison County Coal Com-

372 pany is respondent; and the said John Higgins being of lawful age and sound mind, and being by me first carefully examined and duly sworn to testify the whole truth touching this matter in controversy in said civil cause, deposeth and says:

1st int. State your residence, age, and occupation.

A. I reside in St. Louis; am 56 years of age; and am a ship carpenter.

2nd int. How long have you been a ship carpenter?

A. Ever since I was 15 years old; about 41 years.

3d int. Do you know the steamboat Francis Fisher?

A. Yes, sir; I am very well acquainted with her.

4th int. What kind of a boat is she?

A. Well, she is a tow-boat.

5th int. Large or small?

A. She is a pretty large tow-boat.

6th int. What size is she compared with a large freight and passenger boat?

A. There is a great deal of difference; one is built for carrying, and the Fisher is built for towing. She is nothing but model.

7th int. In respect to size how does she compare with ordinary freight and passenger boats?

373 A. She is smaller; sets lower in the water.

8th int. What is her size?

A. Well, I suppose she is about 190 feet on deck in length.

9th int. How are her guards?

A. The guards are from 18 to 17 inches from the water. I believe the deepest part is 17 inches above the water line.

10th int. When she is loaded?

A. No; at the present time. If she had the coal that she generally carries, and the water, and all the other lumber she generally carries, it would make her about 6 inches deeper in the water.

11th int. About how wide are the guards?

A. Well, I suppose the guards are about 12 feet in the widest part of the guards from the hull.

12th int. Has she fenders?

A. Yes, sir.

13th int. How many?

A. I think there are 8 or 9 fenders besides the short fenders on the knee forward.

14th int. 8 or 9 on each side?

A. Yes, sir.

15th int. Is she a side-wheel boat?

A. Yes, sir.

16th int. Do you know the dimensions of her wheel?

A. That is about 28 or 30 feet in diameter; 28 I believe is the measurement.

374 17th int. How many feet from the shaft to the end of the paddles or arms?

A. 14 feet.

18th int. How many feet are the arms in the water when she is light?

A. At the present time they are three feet under the water. Her buckets are even with the top of the water, as she is now light; her buckets are about 15 inches wide; but the arms are down below the buckets still. From the end of the arm to the top of the water is 3 feet at the present time.

19th int. How many feet above the surface of the water is the shaft of the wheel?

A. It is about 8 or 9 feet.

20th int. Would it not be more than that?

A. Well, not a great deal more.

21st int. How deep is the shaft through?

A. It is about 12 inches; the thickest part isn't more than about a foot in diameter.

22nd int. Is there a wheelhouse?

A. Yes, sir, covering the wheel over.

23rd int. Where does that wheelhouse come to the guards?

A. Well, it comes right square with the outside of the guards; it comes square down with the guards.

24th int. At what part of the boat is this wheel and wheelhouse?

375 A. I suppose her wheelhouse is about 40 feet from her stern.

25th int. The guards forward and aft of the wheelhouse are level, without any covering?

A. There is no covering. There are large staunchins go up to hold the upper guard up, with the fenders along at those staunchins.

26th int. What is the size of these fenders?

A. Well, these fenders are about 8 and 10, and 8 and 12 inches—8 one way and 12 the other—worked with a round.

27th int. What is their length?

A. Well, I suppose they are from 16 to 17 feet long.

28th int. How were they fastened?

A. With a robe to a ring bolt in the upper guard.

29th int. Fastened at the top?

A. Yes, sir.

30th int. How do they hang?

A. They hang straight down.

31st int. Towards the water?

A. Yes, sir.

32nd int. When the Fisher is loaded in her usual way for towing, how near do the fenders come to the top of the water?

376 A. Well, I don't think they were more than 4 inches from the top of the water when she has got all her fuel and everything in that she generally carries when she is running.

33rd int. How many on a side?

A. I think there is 8 or 10, I wouldn't be certain which, on each side.

34th int. Now, suppose the Fisher, with her fenders all down, should come alongside of a barge, would it be possible for her guards to override a barge when her fenders are all down?

A. No, sir; she couldn't do it.

35th int. What is the distance from the outside of the guards to the wheel?

A. It is about 17 or 18 inches.

36th int. Isn't it more?

A. Well, it might be more. I put it down. (After consulting a memorandum.) It is 27 inches from the outside of the guard to the wheel.

37th int. Suppose the Francis Fisher lay alongside of a barge, and steam being put on, the wheel was turned, could the wheel strike the barge?

A. I don't think it could to do any damage, because it might hit the barge; but I don't think it would do any damage. There is nothing to hit. The wheel-arm would be apt to break before there would be any damage done.

377 38th int. Would not the guard extending outside protect the adjacent barge from any blow?

A. Well, I couldn't see how the guards of the Fisher could get over the barge when all the fenders are down.

39 int. Suppose the guards struck up against the barge, was it possible then for the wheel to strike the barge?

(Objected to by libellant as leading.)

A. I couldn't see if the fenders were down how she could strike the barge.

Cross-examination.

1st x-int. Is there a fender outside of the wheelhouse?

A. No, there is one forward of the wheelhouse and one aft.

2nd x-int. How much does the wheelhouse project out beyond these fenders?

A. None; only the thickness of the nosing. It doesn't project any. There may be 3 or 4 inches that it may—the rounding of the guard—just the thickness of the nosing in the center of the wheelhouse.

3rd x-int. What is the shape of the hull of the Fisher from the lower deck down into the water on the outside?

A. Well, the outside is pretty near straight at the wheelhouse, and it curves in a little as it goes forward; the guards grow narrower fore and aft.

378 4th x-int. I am speaking of the hull of the boat?

A. Well, the hull is away inside of the guards entirely. The siding comes down to the water within about 17 inches of the water.

5th x-int. How wide are the guards of the Fisher?

A. From the hull to the outside of the wheel they are about 12 or 13 feet.

6th x-int. The guards set up above the water?

A. Yes.

7th x-int. And the hull is in the water?

A. Yes.

8th x-int. When the Fisher has all her fuel, etc., in, what is the distance between the guards and the water?

A. I suppose there ain't more than a foot; forward there may be 15 inches, but midships she is down when she has her coal and water in.

9th x-int. Towards the stern it is about 15 inches, isn't it?

A. Yes, sir.

10th x-int. The fenders hang down loosely on the guards?

A. They hang down loose.

11th x-int. So as to move backwards and forwards?
A. They are pretty heavy, and it is hard to move them.
12th x-int. They are not fastened at the lower end?
A. Not generally.
13th x-int. How wide are the fenders apart?
A. I suppose they are from 8 to 10 feet on her.

379 I, the said notary, further certify that the foregoing deposition of John Higgins, was then and there reduced to writing by me in the presence of the deponent; that the adverse party was notified and was present at the taking of said deposition. I further certify that the parties to the above-named cause, by their attornies, agreed in my presence that the above deposition might be read in evidence without the signature of the deponent; that I am neither counsel, agent, or attorney for either of the parties above-named, and am in no way interested in the result of said cause.

In testimony whereof, I have hereunto set my hand and affixed my seal notarial this twelfth day of April, A. D. 1867.

[SEAL.] (Signed) EDMUND T. Allen,
Notary Public.

[Rev. stamp.]

The following is a copy of the additional deposition used upon the hearing of this cause on such appeal in said Circuit Court on part of the libellant and appellee, viz:

UNITED STATES OF AMERICA, *Eastern District of Missouri, ss:*

380 I certify that on the 1st day of October, A. D. 1867, before me, L. L. Walbridge, a notary public in and for the county of St. Louis, at the office of Sharp & Broadhead, in the city of St. Louis, county aforesaid, between the usual hours of business, was produced to and personally came before me David R. Powell, a witness on behalf of the libellants, to depose in a cause in admiralty now depending in the United States Circuit Court for the districts of Missouri, (on appeal,) wherein the Illinois River Packet Company is libellant, and the claimants of the Steamer Francis Fisher are respondents; and the said David R. Powell, being of lawful age and sound mind, and being by me first carefully examined, cautioned, and duly sworn to testify the whole truth touching the matter in controversy in said cause, deposes and says, in answer to interrogatories, as follows:

1st int. What business were you engaged in the spring of 1866?
A. Clerk of the Salvor Wrecking Company.
2nd int. Do you know anything of the sinking of the barge "Annie" in the port of St. Louis, in the spring of 1866?
381 A. Nothing beyond the fact that she was sunk, and that I was on her after she was sunk.
3rd int. As secretary of the Salvor Wrecking Company, did you have charge of the business of that company?
A. Yes, sir; I exercised a general supervision over the boats.

4th int. Was any application made to you to raise the barge "Annie?"

A. Yes, sir.

5th int. How long was that after she was sunk?

A. In a very short time; I think within forty-eight hours; possibly within twenty-four.

6th. int. Who was the application made by?

A. At first by the late Col. Whitelaw, who was the agent of the Illinois River Packet Company, I believe.

7th int. Who else?

A. Nobody else; that is all I recollect.

8th int. What arrangement did you make?

A. We sent the steamer Salvor to the boat to try to turn her over.

10th int. What is the steamer Salvor?

A. A wrecking-boat; fitted up expressly for the purpose of raising and wrecking steamers and barges sunk on the river.

382 11th int. State what efforts you made to raise her and how successful you were, of your own knowledge?

A. I was superintendent during the work. The captain of the wrecking-boat worked at her, and then, upon consultation, we concluded it would cost more than the barge was worth to raise her at the rate the work progressed.

12th int. How long did they work at her?

A. I don't recollect exactly, a day or more.

13th int. Were you able to raise her in the days work you were engaged on her?

A. No, sir; we made efforts to raise her with chains and with our purchases. She laid across the current in a measure, and we thought that we could put a chain under her and turn her over and then pump her out. We endeavored to do that but failed. Then we put chains through the bottom of the boat to try to lift her out of the water; she was turned upside down at the time. We found that our purchase was not strong enough to do it.

14th int. You say after working at her you abandoned her?

A. Yes, sir.

383 15th int. What were you paid by the Illinois River Packet Company for your services?

A. They paid us for our services. I do not recollect the exact amount. The books will show I made out the bill at the time, and they paid it.

16th int. How long have you been engaged in the wrecking business?

A. I have had superintendence of this boat now in the third year.

17th int. Who was captain of the wrecking-boat at the time you undertook this job?

A. Capt. Neves.

18th int. How long had he been engaged in the wrecking business?

A. I believe it has been almost his lifetime employment. He was in our employ as an expert in the business.

19th int. Was Neves engaged in this effort to raise the Anna himself?

A. Yes, sir; he was there in charge of the boat; as commander of the boat.

Cross-examination.

By the respondent:

1st x-int. Upon what day of the month was the application made to you to go to work at the wreck?

A. I cannot state the exact date, the books of the boat Salvor will show.

2nd x-int. Where are they?

A. On the boat at Cairo now, or rather up the Ohio river.

384 3rd x-int. What time in the day was the application made?

A. In the afternoon I think.

4th x-int. How soon, after the application was made, did you go to the wreck?

A. As soon as we could get up steam.

5th x-int. How many days after the sinking of the Anna was it you went to the wreck?

A. We were at work on her the next day, I think; I am not positive; within twenty-fours, mind you.

6th x-int. How did she lay when you got to the wreck?

A. She was laying with only a portion of her bottom out of the water, and she slanded down.

7th x-int. Which portion?

A. I cannot tell; whether bow or stern, I cannot say.

8th x-int. Were any other boats near her?

A. Yes, sir.

9th x-int. What other boats?

A. I cannot state positively. I am pretty well satisfied the "Belle of Pike" was there; I am not certain though but one of the Naples' Packets, I think.

385 10th x-int. Was the City of Pekin there?

A. I can't tell.

11th x-int. Didn't the barge lay between the two boats, between the Pekin and the Belle of Pike?

A. I think not, sir.

12th x-int. How did she lay as to the wharf?

A. She laid "catty"-cornered, out in the river.

13th x-int. One end against the wharf-boat?

A. Yes; in a measure up against the wharf-boat.

14th x-int. Did one end touch the wharf-boat?

A. If it did it was under water.

15th x-int. Was not one end of her under a steamboat?

A. One end of her was under our wrecking-boat.

16th x-int. Before you got your boat—arranged I mean—how was she when you first went to her, I want the position?

A. I stated she was sunk bottom side up, with a small portion of her bottom exhibited, and laying with her bow; if it was her bow, I am not sure but one end of her "catty"-cornered in the stream.

17th x-int. Was there a boat laying over either end of her
386 when you went there?

A. I cannot state whether there was or not.

18th x-int. You are sure she lay across the current?

A. That is my recollection of it, not exactly square across the river, but she did not lay flat up and down the shore.

19th x-int. What angle did she lay to the current?

A. I suppose thirty degrees.

20th x-int. How did you fasten your ropes and chains to her in order to turn her over?

A. Under the barge.

21st x-int. How did you fasten to the barge?

A. They took chains around on one side; pulled them in under; put the chain clear round the barge, and then endeavored to make fast on the deck of the barge on one side, so that by pulling on the purchase, turn the barge over; and we were in hopes the current would catch her on one side, and turn her right side up.

22nd x-int. The chains went under the barge?

A. Yes.

23rd x-int. And were fastened to the side of the barge?

A. Yes, sir; they were intended to have been fastened;
387 mark you, let me explain.

24th x-int. I want to know, as a fact, whether they were fastened or not?

A. These chains were not fastened of course, because there was no necessity; the purchase itself would make them pull on one side.

25th int. How long did you pull in that way?

A. Till we found we could not turn her; I don't know how long; we pulled till we found we would break the boat if we pulled any further.

28th x-int. What did you do after that?

A. We then tried to put chains through the bottom of the boat.

29th int. Did you succeed in that?

A. Yes, sir.

30th x-int. What part of the boat?

A. That part that was inside.

31st x-int. How far from the extreme end?

A. About thirty feet, I should judge, as near as I could see.

32nd x-int. Did you put the chains through there?

A. Yes, sir; this time to try to lift her out of the water
388 bodily.

33rd x-int. How long did you pull them?

A. Till we found we could not lift her. We could raise the barge a portion of the way and no further; the suction of the water was too great.

34th x-int. Did you have plenty of room to work your bell-boat?

A. Yes, sir.

35th x-int. Have you ever been on the river in any capacity?

A. No, sir; not connected with navigation.

36th x-int. Are you a mechanic?

A. No, sir.

37th x-int. Where did you get your knowledge of the wrecking of boats?

A. By being an owner in boats and making it my duty to see how the work was done, and a general perception of the business; I consider myself to-day competent to go and raise any steamboat that any man can.

38th x-int. Do you consider yourself an expert?

A. No, sir. I consider myself expert enough to take care of my own property.

39th x-int. Had the boat sunk any when you saw her; that
389 is, settled down to the bottom of the river?

A. I don't know; I can't tell; we at first acted under the impression that she was on the bottom.

40th x-int. Did you afterward come to the conclusion that she was?

A. Yes, sir; from the way she acted. If she had not been on the bottom we could have turned her over.

41st x-int. Did you send any divers down to try?

A. No; there was no necessity; the divers were at work, but we did not send them down to the bottom of the river.

42nd x-int. When you went to the wreck did the boat have the appearance of being sunk?

A. She was sunk.

43rd x-int. To the bottom, I mean?

A. She looked to be one end on the bottom of the river, and the other end as if there was air in it and buoyed up one end.

44th x-int. Suppose you had been there with your wrecking-boat immediately after the barge capsized, do you think you could have raised her?

A. I have no idea, sir.

390 45th x-int. Is it any easier to raise a barge immediately after capsizing, than it is after they have settled on the bottom?

A. Generally, it is.

46th x-int. You say in your examination-in-chief that you consulted together with the other officers of the boat, and you concluded it would cost more than the barge was worth to raise her?

A. Yes, sir.

47th x-int. You think you could have raised her, do you?

A. We could have taken her out of there.

48th x-int. How much would it have cost to have taken her out of there?

A. That I can't tell; but I can tell what we got for taking hulls out at the levee.

49th x-int. How much?

A. Fifteen hundred dollars.

50th x-int. What hulls?

A. We got seventy-three thousand dollars for taking four steamboat hulls out.

51st x-int. Did you ever take any barge hulls out?

A. Yes, sir.

52nd x-int. What did you get for them apiece?

A. I took a wharf-boat out; that is, a small barge, the Alton
391 packet boat, for five thousand dollars; I am not positive about that.

53rd x-int. Did your company ever get five thousand dollars for taking out the hull of a barge?

A. That I cannot answer, because I don't know; I could tell by looking at my books. That question I did not come prepared to answer.

56th x-int. How much did you consider this barge worth, in case you took her out?

A. In good order I consider her worth three thousand dollars.

57th x-int. Do you think it would cost three thousand dollars to take that barge out?

A. I would not have been willing to have taken her out for that.

58th x-int. Did you work twenty-four hours on that barge? that is, did the boat?

A. Yes, sir.

59th x-int. How much did you get for your work?

A. I can't state positively; at first I said I thought one hundred and fifty dollars; Mr. Hancock says it was more; I am not
392 positive; I can tell by looking at my books when I go home.

60th x-int. What is your best recollection now?

A. I can't state; my impresssion was one hundred and fifty dollars, when I came here; but I can tell by looking at my books exactly what I recieved.

61st x-int. How many days would it have taken you to take that barge out?

A. I can't tell about how many; probably a month.

62nd x-int. Couldn't that barge have been taken out in three days' work?

A. No, sir; not with our appliances; that is the best I know.

63rd x-int. You say you commenced on the afternoon of the second day after she sunk?

A. No; I said appication was made, and as soon as we could get up steam. I think we went there in the morning early.

64th x-int. That was the second day after the barge was sunk, was it?

A. Not to exceed the second day; it might have been the
393 first day; as I stated, I don't know exactly how long, but a very short time.

65th x-int. Were any other boats trying to get the barge off before you went there?

A. I know nothing of the matter at all.

66th x-int. Do you know anything of the Francis Fisher pulling on her?

A. No, sir.

67th x-int. Or any other boats?

A. No, sir.

68th x-int. Do you know of any other boats pulling or trying to get her off after you?

A. No, sir; I know a man tried to blow her out with a bellows; to pump the world out from under the barge.

Re-examination.

By the libellant:

20th int. You stated, I believe, that your impression was the barge was worth about three thousand dollars. Did you make any particular examination?

A. None at all; I merely spoke in reference to barges gen-
394 erally; I supposed she was worth about that; but I know nothing about her particularly.

21st int. You don't know much about her value?

A. Nothing beyond the usual value of barges.

22nd int. These wrecks that you spoke of charging the city seventy-two thousand dollars for; what was the value of them after you took them out? or were they as good?

A. No; we took them out in pieces.

23rd int. Whose suggestion did you adopt as to the plan of operations for raising that barge? yours or Captain Eads's?

(Objected to by counsel for the respondent, as not growing out of the cross-examination.)

A. Capt. Eads.

(Signature waived.)

I, the said notary, further certify that both parthies in the above-named action were present by their proctors at the taking of said deposition; that the same was then and there reduced to writing by me in the presence of the deponent; that the proctors afore-
395 said, in my presence, agreed that said deposition might be read in evidence in the above-entitled cause without the signature of the deponent, with the same force and effect, to all intents and purposes, as if the same had been signed by said deponent. I further certify that I am neither proctor, agent, or attorney for either of the parties to the above-named action, and am in no way interested in the result thereof.

In testimony whereof, I have hereunto set my hand and affixed my seal notarial, at my office, in the city of St. Louis, this tenth day of October, A. D. 1867

[SEAL.] (Signed) L. L. WALBRIDGE,
Notary Public.

[Rev. stamp]

396 Circuit Court for the districts of Missouri.

UNITED STATES OF AMERICA, *ss:*

I, Benjamin F. Hickman, clerk of the Circuit Court of the United States in and for the districts of Missouri, do hereby certify the writings hereto annexed to be copy of the record and proceedings in the cause of the Illinois River Packet Company, libellant and appellee, against the steamboat Francis Fisher, the Madison County Coal Company, claimant and appellant, being in case No. 1,165, as fully as the same remain on file and of record in said case in my office.

In witness whereof, I hereunto subscribe my name and affix the seal of said court, at office, in the city of St. Louis, in said districts, this fourth day of December, in the year of our Lord eighteen hundred and sixty-seven.

[SEAL.]

BEN. F. HICKMAN,
Clerk of said Court.